# THE BROOKINGS INSTITUTION

## A DECADE OF DODD-FRANK

CO-HOSTED BY THE BROOKINGS INSTITUTION AND
THE CENTER ON FINANCE, LAW & POLICY AT THE UNIVERSITY OF MICHIGAN

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**Introduction & Overview:**

AARON KLEIN
Fellow and Policy Director, Center on Regulation & Markets
The Brookings Institution

**Opening Welcome:**

THE HONORABLE CHRISTOPHER DODD
Former Chairman, U.S. Senate Banking Committee

**Panel 1: What Were the Difficult Choices of Dodd-Frank, and How Do They Perform Today?**

MODERATOR: DAMIAN PALETTA
Economics Editor, The Washington Post

MICHAEL S. BARR
Joan and Sanford Weill Dean, Gerald R. Ford School of Public Policy
University of Michigan

AMY FRIEND
Senior Advisor, FS Vector

ANDREW OLMEM
Deputy Assistant to the President and Deputy Director
U.S. National Economic Council

JAMES SEGEL
President, James Segel LLC

**Panel 2: Has Dodd-Frank Reined in Systemic Risk?**

MODERATOR: DEBORAH SOLOMON
Economics Editor, The New York Times

LAEL BRAINARD
Member, Board of Governors of the Federal Reserve System

DENNIS KELLEHER
President and Chief Executive Officer, Better Markets

JEREMY STEIN
Moise Y. Safra Professor of Economics, Harvard University

JANET YELLEN
Distinguished Fellow in Residence, Hutchins Center on Fiscal and Monetary Policy
The Brookings Institution

**Panel 3: How Has Dodd-Frank Performed for the Consumer?**

MODERATOR: EMILY STEWART
Reporter, Vox

MEHRSA BARADARAN
Professor of Law, University of California Irvine

RICHARD CORDRAY
Former Director, Consumer Financial Protection Bureau

LISA DONNER
Executive Director, Americans for Financial Reform

CAMDEN FINE
President and Chief Executive Officer, Calvert Advisors

**Lunchtime Keynote:**

MODERATOR: DAVID WESSEL
Director and Senior Fellow, Hutchins Center on Fiscal and Monetary Policy
The Brookings Institution

THE HONORABLE CHRISTOPHER DODD
Former Chairman, U.S. Senate Banking Committee

THE HONORABLE BARNEY FRANK
Former Chairman, U.S. House Financial Services Committee

**Panel 4: How Has Dodd-Frank Shaped the Response to the Current Financial Crisis, and is It Prepared for the Next?**

MODERATOR: VICTORIA GUIDA
Financial Services Reporter, Politico

AUSTAN GOOLSBEE
Robert P. Gwinn Professor of Economics
University of Chicago Booth School of Business

AARON KLEIN
Fellow and Policy Director, Center on Regulation & Markets
The Brookings Institution

MARGARET TAHYAR
Partner, Davis Polk & Wardell

CHARLES YI
Partner, Arnold & Porter

**Panel 5: What Has Dodd-Frank Meant Globally?**

MODERATOR: YLAN Q. MUI
Reporter, CNBC

GARY GENSLER
Professor of the Practice of Global Economics and Management
MIT Sloan School of Management
Former Chairman, Commodity Futures Trading Commission

DONALD KOHN
Robert V. Roosa Chair in International Economics
Hutchins Center on Fiscal and Monetary Policy
The Brookings Institution

HESTER PEIRCE
Commissioner, Securities and Exchange Commission

NATHAN SHEETS
Chief Economist and Head of Global Macroeconomic Research
PGIM Fixed Income

**Closing Remarks:**
MICHAEL S. BARR
Joan and Sanford Weill Dean, Gerald R. Ford School of Public Policy
University of Michigan

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P R O C E E D I N G S

MR. KLEIN: We are going to have an all-star list of speakers who were involved in crafting, implementing, altering, and moving forward Dodd-Frank and the Dodd Frank world we've lived in for the past decade and that world is going to shape the next decade of financial regulation, markets and the economy. We are also thrilled to have everyone here. One of the benefits of a virtual event is the ability to interact easily and quickly. You can ask questions of any and all the panelists by either using the hashtag on Twitter, DoddFrank10, or emailing events@Brookings.edu and we will incorporate your questions, thoughts and feedbacks into this event live and in real time. I'm really thrilled that n really thrilled that we have this event today on the precipice of the 10-year anniversary of Dodd-Frank because this law is still as relevant as it was the day it was signed, and it still is the subject of intense debate. Just yesterday the Supreme Court weighed in with a 5 to 4 ruling, once again hanging and shaping the parameters of Dodd-Frank, in my opinion a giant mistake by the Court, a show of judicial activism on the right, altering the legal structure and reducing regulatory independence, but there will be those who disagree. That's exactly why we're gathering people here to debate what happened in Dodd-Frank and what means for the future.

Let me walk through what our all day agenda and program is going to look like, because you are going to hear from people who really were involved in the core crafting of Dodd-Frank and discussed the decisions that were being made at the time when the law was being written and why those decision shaped our policy response and how they're going to shape the economy going forward and banking and finance for the next decade or decades. Then we're going to turn to the biggest macro question facing Dodd-Frank and frankly, all financial regulation, post the 2008 and '08 crisis, systemic risk. After that, we're going to turn from the macro to the micro and look at consumer protection. IF the financial crisis has taught us anything, it's that those 2 issues, thought to be completely divergent and separate are really intertwined sides of the same coin, series of consumer protections and abuses and sub-prime mortgages in other spaces, actually diddly in the systemic collapse of the global financial system, a conversation that if we had this event 20 years ago, people would have laughed out of the room as preposterous.

Then, at that moment, we're going to turn in here from really the two people that are so intertwined with this law that it goes without saying they are the law, Chris Dodd and Barney Frank. We are going to turn after lunch and we are going to have a discussion about the future financial technology and the implications of Dodd-Frank and the growing changing world of finance that is often known as Fin-Tech. Finally, we're going to talk about how Dodd-Frank changed the world. American may have led us into the latest financial crisis. We also led us out of it. This Dodd-Frank Act truly changed global financial regulation. This is a busy and ambitious agenda. We have a couple of coffee breaks and times for people to stretch their legs in between, but we really want to cover the waterfront.

Let me pause for a second. I really want to thank and acknowledge the planning committee who has made this event possible. When Amy Friend brought up this idea to me, along with Ed Silverman, sitting in the deli, almost a year ago, nobody envisioned we would be having a live, virtual event in the midst of multiple pandemics and crisis facing our nation. When Michael Barr and Laura Schaffer came and started talking about doing something together and partnering, none of us anticipated that we would be around in this environment. We started talking about how can we think about Dodd-Frank in this future next recession, which was no where near anybody's radar screen. An event like this doesn't happen without a lot of people. The university of Michigan's Center on Finance Law and Policy, their support, from the Ford School of Public Police has been invaluable, specifically the work of Christie Bear, Tracy Van Deuson, Ryan Ricketts, Daniel Rivcan, Rebecca Cohen, Julie Laurie, Claire Smith, Jay Campbell and Gerald Sill. From Brookings, we are incredibly grateful for the leadership and support from our vice president of economic studies, Stephanie Aaronson, our communications team, Chris Miller, Shannon Meraw, our events team, Anna Dawson, our AV team, Kelly Baker who helped organize all of this. It really takes, much like Dodd-Frank, the work of hundreds of people, too many to thank individually, too many to include on this program, but success has many fathers and mothers, and there were many people involved in the craft business law. There are many people involved in this program, and on behalf of Brookings, I would want to give a sincere thank you.

I also just want to make one note. Which is that financial regulation can often feel like an abstraction. Concepts that can deal with systemic rick and consumer protection, balancing the value of financial stability and economic growth, trying to create trade-offs, debating legislation that fundamentally transforms the allocation of capital. It has huge economic impacts, but fundamentally, financial regulation is about judgment. It's about leadership. No law or structure can force somebody to make the right decision.

Simultaneously the availability of credit can be a life changer, providing people the opportunity to do amazing things. The systemic denial of credit can be a crushing economic blow, resulting in decades and generations of inequality and a failure of opportunity. Far too long in American history, we've seen these decisions being made as a result of systemic racism and structural inequality. The movement tat's brought her afoot, I think, needs to be incorporated into our thinking, because this conference and debate is as relevant a conversation there as it is going to be about climate change, it's going to be about economic growth and opportunity. Millions of people's lives were altered by the Dodd-Frank Act and they may not even know it exists. That's one reason why it's so critically important that we're here today to debate, not only what causes to make those choices, but what those choices mean for the future.

I'm going to pause now and introduce a legend in his field, a leader of our nation, a mentor, somebody I was fortunate to work for, Senator Chris Dodd. I want to start with a brief story. I was the chief economist on the Senate Banking Committee, served on the Committee for 8 years, and was fortunate to serve under Senator Dodd's chairmanship for a little over 2 of those years. Senator Dodd was only chairman of the Banking Committee for 4 years. During that time, he led legislation that fundamentally reformed the regulation and oversight of the housing market, including Fanny and Freddie, known as the government, sponsored enterprises. He oversaw regulations that fundamentally transformed the regulations of the credit card market. That little plastic square that is increasingly becoming a digital idea, that's in the wallet of so many millions of Americans and in our mailbox, almost every day. That was totally revamped how that deregulation under the leadership of Senator Dodd. There was also this small legislation called the Dodd-Frank Act that we're gathering 10 years later tomorrow. The story I want to tell is another bill that he passed during his 4 years as chairmanship, known as the Emergency Economic or Stabilization Act, which everybody calls by its first Section 101 the tarp. I'll never forget. During this debate about how to respond to the economic crisis that was enveloping this country in 2008. There was a moment when things were not going do sell. The Treasury secretary was still pleased about the failure of Lehman Brothers as a result of promoting moral hazard or discouraging bailouts. Markets were wild and jittery. As many of you may recall, down the road, the House of Representatives turned down the first bailout. This occurred in the backdrop 60 days before a presidential election, the height of American partisanship. We had a hearing where the Treasury Secretary is going to make this idea and we had already come to the conclusion, under Senator Dodd's leadership, that their idea of a troubled asset action program wasn't going to work. I walked into the hearing loaded for bear, with all these questions designed to expose the fallacies of the administration's proposal and promote the ideas of ours. Senator Dodd read them and he looked at me, and he said, "Aaron, do you think we need to pass a bill to solve this problem for the benefit of our country?" I said, "Senator, you're right, we probably do." He said, "Are yoru questions designed to make a bill easier to pass or harder?" I said, "Senator Dodd, these probably make a bill harder to pass because they show the problems on the other side. He said, "What are you going to do about that, Aaron?" I said, "I'm going to go back and write some different questions". It was Senator Dodd's keen leadership and vision, that the goal of creating legislation is not to score points, is not to embarrass the other side or promote your side, even if elections are turned about it. The goal is to do what's right for America and ultimately what's right for the world. That has left an indelible mark on me. Senator Dodd's work has left an indelible mark on this nation. Without any further ado, I want to welcome and thank Senator Dodd and turn the floor to him, to hear his vision for this event and his thoughts about a decade under Dodd-Frank. Senator Dodd, thank you very much for joining us. Welcome and look forward to hearing your thoughts.

MR. DOGG: Thank you, Aaron, very, very much. I almost felt I had died. That was sort of a eulogy, but I thank you for those tremendously generous comments. You and Amy and so many others that we are going to hear from today were involved in both the House and the Senate in putting the bill together. Many of you have heard me tell this story, but it was about 4:30 in the morning in the conference, when Congressman Kanjorski was finishing up their bill and the House and Senate were meeting in a rare -— something you don't know about today. We'll have to teach students what a conference is between the 2 houses of Congress. Congressman Kanjorski suggested we name the bill the Frank-Dodd bill and Barney, of course, with that endless sense of humor, said, "No, they'll just think it's one guy", he said "and I'll end up being blamed", he said. "Let just reverse that. We'll call it the Dodd-Frank bill". So, Barney and I both felt that naming the bill for us in a sense historically, for some reason, a financial service bills historically, have had names of members attached, Blast-Eagle and many others that people remember, but in fact, as you pointed out, Aaron, and you'll hear it throughout this day, this was an incredible effort that involved some remarkable people, names you'll probably never know in a sense, don't get the attention they deserve, but working to make this happen, both within the administration, obviously our staffs, stakeholders, outside inside point out, as we talk about today. We didn't end up with a lot of Republican support of the bill in its final passage, outside individuals who contributed as well, our Republican colleagues, you point out as we talk about today, we didn't end up with a lot of Republican support of the bill in its final passage. But as Amy Friend will tell you and others, Eddie Silverman, who worked on this bill, Jimmy Seagle, the bill has a lot of input from our Republican colleagues. Why their names don't show up on the day of the final vote, this really was as much of a cooperative effort as we could get at the time. So, Aaron, I thank you for your wonderful support and help in putting this conference together. You've really outlined in many ways, but I think it's critical. It's really important that we go back. I think historically, it's very valuable. How did this happen? What would we do differently? What would we add? What would we take away? There are a lot of those ideas which I think are valuable. None of us could have anticipated. When you called me, Aaron, and Michael Barr got in touch with us, and Amy came up with this idea, we had no idea we would be gathering in places all over this country and we'd be in the midst of the worst economic crisis. It makes what we went through in '08 seem pale by comparison in many ways when you realize what's going on globally. So, the timing of all of this couldn't be better. I'm confident today not only will we go back and revisit the decision-making process that led to this result as important, in fact, more important in many ways. How can we learn from that experience and apply it to this, because we clearly now, 10 years later, have many more opportunities and so forth than we had those days, 10 years ago, to really step up? We've been given a gift. I know that's a remarkable word to use, in the midst of what people are going through, with the tragedy of this virus, but we've been warned now, clearly warned, that we need to do things differently if we are going to come out of this economic and health care crisis in ways that will allow prosperity and growth and optimism to be restored to the country. With that, let me just share a few opening thoughts, if I can in addition to these brief comments, but again, Aaron, thank you for those very generous comments about the work of our committee.

It's an honor to join Barney this morning and today and other distinguished speakers and guests we have. I clearly want to thank Brookings and you, Aaron, again and the team at Brookings, along with Michael, the University of Michigan's Center for Finance Law and Policy, a great institution combining academics with a think tank like Brookings. That's a very smart idea, bringing us all together, all for the good and thoughtful work that you do and we did to advance. Brookings does it all the time in advancing policy decisions. Where these kind of conversations can occur. I understand as well that we'll be hearing from Glen Hutchens who is doing great work at Brookings, a remarkable individual who contributes in so many different ways. I'm excited about Glen being a part of this effort today.

It's important, I think, to review what we did 10 years ago. As I look around this virtual room, you can hear from some remarkable people who can bring great insight to what we tried to achieve. I see leaders who helped our country through an unprecedented financial crisis, who worked with us to craft this legislation. I had an incredible partner Barney Frank. We had worked together on some issues in the past, but this was clearly a major, major effort for both of us. It was really a remarkable time together. We developed a great friendship putting this together. I can't thank him enough, not only for his work but the work of his staff, as well, for making all of this come together, if you will. I had tremendous colleagues in the United States Senate. People may have forgotten this, but Barney and I were negotiating the final vote of Doss-Frank. As the final vote was occurring on the floor of the United States Senate. This bill became law with the thinnest of margins of any piece of legislation, one vote. One vote. If it had gone the other way, we'd be having an academic conversation about Dodd-Frank, not a discussion about what we were able to achieve and accomplish without legislation. So, my thanks to my Senate colleagues, as well as tremendously important to mention The Obama Administration played a critical role, obviously a President who cared about it, a Vice President who cared about it, moving us forward. So, I'm grateful to them, as well, cared about not only just what we did but the outcome of the legislation. Again, to the banking committee staff in the House and the Senate. It's worthwhile, I think, to look back at what we did, but as Aaron has said and I tried to suggest as well, we need to also reflect on where we are in this pivotal moment and none of us, again, could imagine, as I mention a moment ago, the Navy talked about coming together and none of us could imagine what we would be going through at this hour and where we were going. So, the conference gives us a wonderful opportunity explore how the lessons we learned 10 years ago might guide us and looking forward and considering the path again in this crisis ripped.

So much of our lives and the lives of the American people, the people around the world have been changed by the pandemic, as we all know, and our expectations have been upended in many many ways and we will end up, I am confident, with a back seed. This is not the last global pandemic. All of us came to the realization, we're in a different world today for a lot of different rea0sns and will cure and minimize the virus. I'm very confident of that as well.

. All of us in this room, and if others disagree, I'd be anxious to hear why. I have been changed by the pandemic, as well ass know debutante. I have been changed by this room and if others disagree, I'd be anxious to hear why. I recon recovery is going to lag behind in my deal. Even if a virus appeared six or seven months from now, getting back on our feet economically is going to lag behind our ability, I hope, to solve the 'virus of the health care issues. We can't do business the way we have done it in the past. It's not going back to normal, whatever that was. That's over. We've been given this opportunity, if you will, to understand we cannot do things the way we've done it in the past, if we are going to get back on our feet and provide the leadership that we have historically in financial services. So, where are we today if we look ahead?

Dodd-Frank has delivered on its promise to create a more transparent, accountable, resilient financial system, one that is being tested by this pandemic obviously and its spillover effects on the economy. I believe this is very important to say. I think we would be in a far deeper mess today had we not done what we did in 2010, had we not provided the capital, the liquidity, the stress test, all these other items. Today our financial services are playing a very critical role in helping us get back on our feet again. Had we been left with a structure that existed in the fall of 2008; I think the problem we're facing today would be substantially worse than it is. So, today we can talk about that, but I believe that very, very, very, very sincerely. There is no doubt in my mind that the system today is in better shape to face this crisis and the financial system that nearly collapsed in 2008 from circumstances of its own making, which is very different from the one we're dealing with today. We know well from the financial crisis of 2008 that the health and stability of the banking system is inextricably linked to the financial health of consumers and communities, as Aaron has already indicated. It doesn't take much to understand that we have a long way to go to achieve a financial system that treats all consumers and communities fairly and with dignity and the financial health is still far out beyond the reach of too many of our fellow Americans and people around the globe. It has never been more clear than the past few months. Once again, tens of millions of Americans are unemployed. Businesses are struggling to open or stay open. The Congress and the Fed have been pressed into taking action. Can you imagine if we had said in February, by the way in a few weeks the Congress will come together without a dissenting vote in both Houses, and appropriate trillions of dollars to get going. You would have been considered a lunatic to imagine in this day and age that that kind of an occurrence would happen, and yet we watched it unfold before our very eyes.

Across this country and around the world, we see that just having a cell phone, for instance, can unlock access to a banking system previously unavailable, certainly in the days when we were crafting this legislation. Thousands of Fin Tech's, companies that didn't exist 10 years ago have shaken up banking, the banking industry by using new technologies to develop and cheapen, offer cheaper, rather, and faster and more user friendly an accessible financial services. Banks are learning that technology may help them serve customers, that previously were written off previously and should embrace the changes that are ensuring consumer protections and are at the forefront of those particular efforts. The use of technology may be one path forward to achieving a more inclusive fair financial system which I agree with. I challenge regulators as we hopefully will discuss today to better understand the innovations to benefit consumers and small businesses to identify impediments to financial innovation and to establish regulations and encourage such innovation, while outlawing obvious abuses. Further, we need to redouble our efforts to ensure that consumers and communities have the essential financial services they need to be productive. That sentence alone, in my view, could say what we really ought to try and achieve here today in this conference.

We need to re-double our efforts to ensure that the financial system lifts up people by offering suitable, affordable accessible products and by shunning predatory practices that exacerbate the economic and racial inequities in our country that again, over these last weeks, you've seen those scars and those inequities that exist in our country today and need to be addressed. While the Dodd-Frank Act was greatly informed by lessons learned from the last crisis, the tools have provided regulators that are forward leaning, in my view. The law encourages regulators to look around corners for the next source of stress to our systems and to share their information and their views with each other through the Epsock (phonetic), and to ensure that we are appropriately prepared in protecting the financial health of all Americans.

Now, we know that not all of the threats will originate within the financial system. Again, Aaron has addressed this, and really, I hope it will be stressed today in our process. With COVID-19, we've seen that a health crisis can quickly spill over into the financial system. Right now, another natural disaster is looming. It's serious with wide-spread consequences for our financial system. Of course, I speak of climate change. Policy makers and regulators don't need to wait until a catastrophic act is upon us. Now is the time to lay the groundwork and thinking ahead. We have been warned. We're seeing it before our very eyes. We don't have to wait to see something unfold in my view, to collect the facts and to move forward with imagination about the havoc that we're confronting, but also how we can deal with droughts and floods and fires that are going to have a huge impact on agriculture, homeowners and communities and institutions that financed them and insure them as well.

Let me just say this to you, and we'll talk about this today. I've often said over the last number of years we never could have passed Dodd-Frank in 2006 or 2007. It only took the events in the fall of 2008 to make people realize the occasion. Frankly, we almost waited too long in 2010. We got very close to the point where we Americans think everything is okay, we don't need to do anything. So, I would warn coming Congress this year, don't wait too long to move. We're going to get better and healthier for all the reasons I've mentioned here, but we need to understand what we've been served up here and we need to address the reforms that could be made and to make sure we weather these efforts better. At any rate, these and other challenges loom large. We've got a great opportunity today to talk about them. The only way we can tackle them is through a collective effort.

Aaron, I appreciate you telling that anecdote and story as we've led into the tarp legislation. The answers are not confined to any one agency, to any one institution, one political party. What I learned through 36 years of serving in the House of Representatives in the United States Senate is that solutions achieved through consideration of diverse viewpoints while mess and inefficient and frustrating beyond your imagination here. What emerges from that process historically are far more durable and more widely accepted and will stay with us in the years ahead. So, we cannot lose sight of what I've learned historically by going through this very painful process to reduce the results. I appreciate, Aaron, your talking about the lesson it took me some years to learn as a member of the United States Senate. Meetings like the one we're having today are worth for our collective efforts. While I'm honored to be here today to look back on what we achieved 10 years ago, I would challenge all of us, those speaking, those listening today to think ahead. How can we think ahead now the next 10 years and beyond to take actions that not only will strengthen our economy and serve communities and minorities in our company, but as we did, and I appreciate, Aaron again, your mentioning this, we lead in the world. I don't want the United States to ever have to follow anybody else. We are the gold standard on financial services. We ought to be deeply proud of that, the success we've provided in our country historically in this particular area. So, I want to see the United States lead. That was one of our motivations with the Dodd-Frank bill. So, I'm excited to hear today about the ideas and the questions that come up. You've been patient to listen to these opening remarks, but I think it sets the tone for what lies ahead of us. So, thank you and I look forward to the discussion.

MR. KLEIN: Thank you very much, Senator Dodd. You've really outlined an ambitious agenda for us to follow today. I'm going to introduce Damian Paletta, who is the economics editor of the Washington Post and former White House correspondent and like his fellow panelists, was in the room when it happened, covering legislation that became the Dodd-Frank Act live, 10 years ago. Damian, thank you very much for joining us. The floor is yours.

MR. PALETTA: Thanks so much, Aaron, great to hear your voice and Senator Dodd's as well. So, 10 years ago, I was the banking policy reporter at the Wall Street Journal and I was ne of the reporters that kind of followed the difficult decisions that these panelists had to make when the bill was getting put together. So, we have a great panel and want to get right to the questions, but let me introduce them quickly.,

So, we have Amy Friend, who is a senior advisor at FS Vector. During the debate, she was the chief counsel for the Senate Banking Committee. Also joining us is Andrew Olmem, who recently stepped down as deputy director of the White House's Economic Council. During the Dodd-Frank debate, he was minority Senior Counsel on the Senate Banking Committee. We have Jim Segel, President of James Segel LLC, who 10 years ago was a top advisor to House Financial Services Chairman, Barney Frank, and of course, Michael Barr, the Joan and Sanford Weil Dean at the Gerald R. Ford School of Public Policy at the University of Michigan and during the Dodd-Frank debate, he was the Treasury Department Assistant

Secretary for Financial Institutions and one of the top advisors to Secretary Geitner who we saw on the Hill as much as we saw a lot of the Congressional aids at the time.

Michael, let me start with you. When you guys were designing Dodd-Frank, there was an eye towards reforming the existing system but also you guys are trying to look at what the next crisis might be and how to protect the system in the event of a crisis. Can you point to parts of Dodd-Frank that you think did protect the financial system in this current economic crisis and what things if you had to do them over would you maybe have spent more attention to and focus on?

MR. BARR: Thanks, Damian. There is a lot to talk about in that question but let me just start with the basic premise. Our thought in designing and working with the Senate and the House on Dodd-Frank was not to try and predict the next crisis, but to be quite humble about our ability to predict the next crisis. We wanted to set up legislation and a regulatory system that was resilient to the different kinds of risk that might arise. I don't think any of us ten years ago thought the next economic crisis would be caused by a global pandemic, but what we tried to do was build resilience into the system so that when those risks hit the system, its better able to absorb that risk and not pass it on to households and consumers and taxpayers. I think the major elements of the Dodd-Frank Act do that. The additional capital and liquidity, the approach to systemic risks, that is required now of the Fed, which has led the Fed to impose surcharges to engage in stress testing that takes into account the macroeconomic risks, the big picture risks of the system as a whole and not just the micro risks, the risks to individual firms. So, I think all those measures have made the system more resilient. The form of shadow banking markets particularly derivative reforms have made the system more resilient. And Lastly, we got the Supreme Court news this week. I would emphasize the creation of a strong consumer financial protection bureau that's looking out for American households. That is so critical to making our financial system both safer and fairer. With the Supreme Court's decision, we're now going to see a switch in directors with every president. But the major elements of the consumer financial protection bureau are intact and strong. Its independent role writing, its independent enforcement, its independent supervision, and very critical it's independent budgetary authority. All those measures, I think, will give the opportunity for the next director to undo some of the damage from the last 3 years and to chart a better course for the future.

So, in a big picture sense, consumer protection, derivative reforms, safety and soundness in the system were, It think, all strong wins. In any legislation, there is always things you wish you had done differently. I know, looking at Amy, each of us probably has a provision, a sentence, a word on every page of that Act that we wish had turned out differently, but I'll cite a few things that we knew at the time that we wanted to tacked, but we couldn't in that legislation.

Obviously, reform of Fannie Mae and Freddie Mac, which all of us thought would be the next big bill after Dodd-Frank. There was no political appetite to address and there still isn't 10 years later. Money market fund reform, we thought was going to be accomplished by the SEC in a serious way. They had and have the authority to do that. We didn't include it in the bill, but I think we've seen one of the first risks that came up in the current economic crisis was a risk of a run in the money fund sector and you saw Treasury and the Fed step up to guarantee the system. That's a second, I think, big area.

A third thing that I think is complicated is about the regulatory perimeter. How to bring non-bank major systemic institutions under Federal Reserve supervision. We had a system in Dodd-Frank Act to do that. There were designations that were done, but a combination of the administration and the court case blocked that from really being implemented, and then Treasury under the Trump administration changed the rules to make it extremely difficult to designate in the future if those rules stay. So, right now, we don't have that extension of the regulatory perimeter that is so, I think, essential to prevent risks from the non-bank sector of the kind we saw with Lehman Brothers and AIG in the last crisis. And, so, I do wonder if we should have had a different system, an automatic system for designation that wouldn't have been subject to these kinds of rollbacks that we saw in the last 3 years. So, those are some examples of what we might have done differently from my perspective.

MR. PALETTA: Andrew, can I ask you, you had the unique spot of being on the Hill for Dodd-Frank and then in the White House for the current economic crisis. You got to see Dodd-Frank up close and personal being tested. What is your impression of how Dodd-Frank fared during this crisis and what is your assessment of it 10 years later?

MR. OLMEM: Thanks, Damian, and thanks for having me here. I think my assessment is less rosy than Michael's. The first point I'd like to make though is that for the current crisis, what really was important was very little in Dodd-Frank, but really comes down to strong leadership. I think in both crises, in

’09 and in the current crisis, the distinguishing factor that gets lost in these debates. It’s making sure you have the right people in these positions. We are fortunate to have Secretary Paulson last time. He could have driven a big really important response to the crisis. I think Secretary Mnuchin has done the same thing here. That, I think, is a key point that gets lost in these debates. I don’t think Dodd-Frank really had that much to do for the ability to respond now for a couple of additional reasons. One is most of the capital and liquidity requirements and strengthening of the capital by banks and other financial institutions would have happened regardless of Dodd-Frank. The regulators were in the process of improving the capital and liquidity requirements well before Dodd Frank had been passed, as well as market participants were also requiring that. So Dodd-Frank quantified and papered what was already going to happen.

On the positive side, I agree with Michael, that I think the derivatives markets are better. They are more transparent and better capitalized because of Dodd-Frank. I think that was a good bipartisan form that was included. In the bill, I think to my earlier point, Dodd-Frank embolden the treasury secretary is the key leader in our financial crisis as important. That means the signoff of the 1303 landing and also making sure that you have somebody in the presidential chain of command who leads the FSOC and all the other financial regulators. That is also important, symbolic leadership in a future crisis. I also think Dodd-Frank takes away though from and in many ways, it is a huge missed opportunity, because our financial system, pre-Dodd-Frank, was well recognized. It was too costly, too complex, too fractured, gave a huge advance to larger institutions. Dodd-Frank didn’t do anything with respect to those key parameters. I think all experts agreed going into the Dodd-Frank deliberation are essential to address. In fact, it made it worse. The system is more costly, more complex and more fractured than it was beforehand. I think that has set us back internationally from being rather than a leader in how financial regulations should be done, an example of what not to do when you’re moving around your deck chairs on financial regulation. In that sense, I think Dodd-Frank was a real missed opportunity to come up with a world class financial regulatory structure.

MR. PALETTA: Amy, can I ask you, Andrew mentioned FSOC. I remember covering those markups and how much attention went into FSOC. It was interesting at the time we had a real empowered and powerful FDIC Chairman, Sheila Bear who was very worried about one agency having all the power. Can you walk us through what went into the design of FSOC and whether you think 10 years later it looks like the kind of system you set up? Should Americans feel confident that FSOC is going to kind of be looking out for the next crisis?

MS. FRIEND: Sure, happy to answer that question. I also would like to respond to Andrew at some point. We can get into it a little bit because I disagree with Andrew on a number of his assertions. But FSOC, it was not a foregone conclusion that we would have an FSOC. There was a realization that we needed some type of augmented authority to spot systemic risks that may threaten the financial system and that we needed an entity or entities that would have the authority to address those. Very early on, the administration had floated the idea of giving all of that authority to the Fed, but that would have included the authority to designate these non-bank systemically important institutions, identify them and then bring them in for regulation. There was some concern in the Senate that that was unchecked authority investing in a sole entity. There was also concern at the time about giving additional authority to the Fed based on its actions or inactions leading up to the financial crisis and concern about giving it so much authority that would politicize the Fed in a way that would detract from its independence and monetary policy authority.

So, over the course of shaping the legislation, the Banking Committee held numerous hearing. I remember in one hearing, one of the witnesses said we should think about establishing a council of regulators, which made a lot of sense. We have a very sort of fragmented regulatory architecture, lots of different regulations, sometimes have overlapping jurisdiction, sometimes not. The idea is that those regulators collectively would be charged with watching out for emerging risks, sharing information. That had a lot of appeal. I remember the Chairman was quite interested in it, but it also had appeal to the other regulators like Sheila Bear, Mary Shapira who is the Chair of the SEC, who very much wanted a seat at the table, along with the Fed in identifying and addressing systemic risk, but it wasn't as easy as create a counsel. Then the question is where does it reside? What authority should it have? Would a council actually be supervising for systemic risk? So, there were different iterations. One was how about creating a new, independent agency, that had all of these regulators as a council with a presidentially appointed head. That would be an independent agency. The thought there was perhaps that agency would be less political and therefore more not so reluctant to move forward in addressing the risk as they saw it. So, sort of free of politics, if there is such a thing, but I would say that we ended up with a council inside the treasury and there, the Obama administration and Senator Shelby and his staff saw eye to eye, that ultimately this council should not be an independent agency, but should be housed in Treasury, headed by the Secretary of Treasury for the ultimate and political accountability. So, the decision was made to put it in Treasury, but then there were questions about who should be on that council. I would say that over the course of the legislation, both the duties of that council were augmented and grew. The number of the voting members of that council grew. So, we now have 10 voting members of that council. We have five non-voting members of the Council which includes 3 state regulators and there is a litany of duties that this council has. So, primarily, it is to designate systemically important institutions outside the banking system to designate activities that are systemically important, that a prudential regulator should step up and take action on, and that it can advise the Fed about their prudential authorities in systemic risk, but also the FSOC can handle jurisdictional disputes amongst agencies. The FSOC is a place where a prudential agency can register a complaint that the consumer protection bureau may have put out a regulation that could destabilize the country. That is a very, very high bar, but that authority resides with the council. So, as different issues came up in the legislation, the Council became a convenient place to put those different issues for consideration and disposition.

So, ultimately what we saw was that the Fed did get systemic risk authority, alongside the FSOC. They work in tandem. They each have their responsibilities. I would just say where are we today. I agree very much with Michael that it was a mistake for the FSOC to curtail its own authority to designate systemically important institutions outside of the banking system. I know that designation was quite controversial. Senator Shelby and his staff had suggested that rather than giving this authority to the FSOC, if the FSOC determined that a particular institution was systemically important and needed to be regulated outside the banking system, they should come back to the Congress for authority, so that the Congress could fashion a specific regime. That's quite cumbersome. That's not what happened. I'm concerned that they have cut back on their ability to designate an institution outside of the banking arena because we saw in that last crisis that risks grew up in these big financial institutions that were not prudentially regulated. The other is that the FSOC is specifically tasked with looking for risks that are merged outside of the financial marketplace and that is something that
they could step up and I think be more proactive. So, we see we're in the middle of one of those risks right

now, which is a global health crisis that spilled over into the economy and the financial system. I think Senator Dodd said climate change is the next risk. We don't have to wait until it is completely upon us for the FSOC to do something.

MR. PALETTA: Jim, Amy just talked about the regulators. There were even more regulators then than there are now and there's still plenty of regulators, but one that got the most attention then was the Federal Reserve, and I think the Feds at the center of the government's response in terms of regulators right now. You guys spent a lot of time working on that, the 13-3 debate within Dodd-Frank. Can you walk us through what that debate was like, what you guys were dealing with and whether you think the restrictions or the things you put in place in Dodd-Frank are working now or whether the Feds end up doing whatever it was?

MR. SEGEL Sure. The Fed Reserve used a very little-known section of its powers called 13-3. In emergency exigent circumstances, the Fed could step in and lend money to any entity in the country. This was created – actually it wasn't created in the New Deal. It was created before the New Deal, in the Herbert Hoover Administration. It had been used very little for the intervening 80 years. In fact, I don't think anybody outside of the Fed knew about it. I don't think any members of Congress knew about it. If they did, it was something that was never in the forefront. Then in the Bearn Sterns crisis in March, the Fed came in and helped J.P. Morgan take over there. It was used for the first time and I think most Congressmen were kind of surprised that the Fed had that power. In fact, someone said later on they used it for AIG. They used it for Citi Group. They used it for Bank of America. Someone came in and said you have 80 billion dollars that you can just lend? They said we have 800 billion dollars which at the time seemed outrageous, but now, it's been used a number of times since then. So, in a crisis, the Fed acted but in Dodd-Frank, we thought it would be a good idea to at least channel and maybe curb some of the powers, because when you have an independent entity that can lend that kind of money to anybody, it could lead to both cynicism and cronyism, although it was not used by the Fed in that way. We thought that it would be better to curb some of that. So, some of those powers were changed. Instead of lending to any entity, you could only lend in categories, which is what they are doing now. They're setting up categories, instead of an independent. Also, the Secretary of the Treasury has to sign off. Batrachian (phonetic) and Guyton (phonetic) work very closely with each other. Treasury was pretty much on board with everything, but we wanted that made formally. We also wanted all of the recipients with a time lag to be known to everybody. So, instead of this being, again, in secret, we thought that it would be better if it was full transparency. Lastly, we didn't want money being lent to insolvent companies, but only for liquidity purposes. That is kind of how emergency differentiates between insolvency and liquidity. I think Lehman could have been either way. It was deemed insolvent, but it thinks it could have been a liquidity problem at the time, but in any event, we changed it in those 4 ways. This was not one of those areas that was really debated by committee members. It was not out front. It was really handled more by the members of Congress and staff with the Federal Reserve behind the scenes because it never came up really in committee. I don't remember it being debated in the committee during a mockup or even during the hearings, but we thought that these improvements would be better. It has worked really well. I disagree with Andrew in terms of his determination. I think it's much better that these changes were made now. People know what's going on with the Fed. We wanted to preserve the Fed's right of action if they could respond immediately. Congress is obviously a much slower institution to respond in an emergency. Also, the Secretary of the Treasury often cannot respond as quickly as the Fed. So, we wanted the Fed to be able to act, but to be able to act within certain guidelines that we think are better for the American people and for democracy.

MR. PALETTA: Thank you, Jim. Andrew, if I could just ask, as Michael pointed out, there was this Supreme Court ruling yesterday on the CFPB. What was your assessment of that? Is it a credit to the way the Democrats designed it, that this can rule one way and the entity would stay intact? What is your take on it?

MR. OIMEM: I think it comes out of one of the big philosophical divides about Dodd-Frank. This is just our two parties have very different philosophical viewpoints. I respect their viewpoint and I understand where they're coming from, but on our side, we just have a more -– they have a very progressive air of view about independent agencies. We had a much more Hamiltonian deal of having a strong executive branch. That's where you see a lot of the sharp divides. As you see, a lot of the things that Michael is talking about will give authority to regulators, insulate them from Congress, make sure they don't have to go to Congress and involve them in the process, and largely keep it to kind of Technocrats in the agency. That's kind of an old progressive Era, the nature of independent agencies, the theory being that you take kind of smart people, have them look at the facts, and they'll come back with what the right answer is. You don't need Congress or even the president involved in that. Our view was that these decisions about financial regulatory space, first of all, are inherently decisions that need to be made by an elected representatives, that congressman president should have a strong say in them. That's part of our representative democracy works. They aren't technical issues. These are fundamental policy decisions that need to be made. So, that was one of the real conceive difference of viewpoints in Dodd-Frank on how we structured. We wanted a much more Executive Branch focus, much more role of Congress. I completely agree with Senator Dodd's opening remarks about the importance of having Congress go through that deliberative process. You get a much better product, much more thought out, and more durable policy outcome than if you just delegate it to agencies and they come back without any involvement from the public.

' So the decision with the COPB, in particular also comes back to the idea of accountability. There is much more accountability if you have your political figures, Congress and the Executive Branch making these decisions. Senator Shelby at the time was very focused on making sure that there would be accountability and financial regulations. He would be very concerned that regulators had made a lot of mistakes to lead up to 2008 and he wanted to make sure that whoever had responsibility going forward, there would be direct accountability. Under our system of government, that would be the president. I think we kind of saw this also coming when we saw the restriction come up. There was a lot of debate with Michael and Amy about the constitutionality of this. I think the debate went along kind of predictable lines, as you probably saw in the Supreme Court's briefings on it. Now, it's come out, as I kind of saw, it would be very much like the PCLB case, and they struck down that removal provision. It is important to know, though, it does remove the removal provision, but it doesn't change the term. So, I don't necessarily agree with Michael's view of that, every term the President will have their own PCLB director. That's only if the President determines to use that authority. It was very clear to us –

MR. PALETTA: Which they very often do, Andrew, right? I mean, it's very uncommon for them.

MR. OLMEM: No. That's not the case actually. Most of the other financial regulators do not have that removal provision. It's only a couple of them that do. So, I don't think hat's necessarily a requirement and I think one of the key points that will have to be made going forward is how that provision will be taken. Presidents have traditionally allowed regulators to stay for their term. The Controller of the Currency has a provision for removal and the Obama Administration kept the Controller in over a couple of years. So, I think it all depends on the President, but having that clear level of accountability is probably good for our system, and that was one of the key issues dividing between Republicans and Democrats through the -– and also prevented getting a bipartisan bill. Now looking back, it would be interesting to know if we knew this was going to come, whether or not that would have changed potentially the outcome on the overall vote on the bill.

MR. SEGEL: I don't think so, Andrew. You guys in the Senate were totally opposed to a consumer financial protection bureau. You're talking about it now like there was a debate about the constitutional provisions and Hamilton's view of government, but that wasn't the case. There was a huge fight in the house and the Senate over creating a consumer financial protection bureau. It was all about not wanting consumer regulation.

MR. OLMEM: No, that's not –-

MR. SEGEL: It was in broad terms. No, I remember the debate. I remember what Senator Shelby said to me about it. It clearly wasn't about Hamilton. It was about consumer protection or not. I think it wouldn't have. If we had had a single director versus a multi-member commission, the outcome would have been the same. If we had had a single director with the removal powers the way we had it or the way that it now is after the court case, the fights would have been the same. This is really a red herring. The issue is are we going to have a strong consumer protection going forward or not. In the last 3 years we've seen significant rollbacks by the directors of the CFPB on payday lending, on prepaid card rules, on enforced arbitration clauses on enforcement, and we need to have a director and a CPB that's actually fighting for American families.

MR. OLMEM: Well, you're getting more political now as opposed to talking about what the facts were at the time. The facts that were at the time was that we were up for stronger consumer protection. You can go back and look at a bunch of the amendments that were filed as part of that process. There was a real issue, though, about separating consumer protection from safety and soundness and they are 2 sides of the same coin. Right? A bad mortgage is not only bad for an institution, but bad for a consumer.

MR. BARR: Let me jump in for a moment. One of the things that really stuck with me and I think stuck with everybody was this idea of too big to fail. That emerged during the crisis. Whether Lehman brothers was too big to fail or Wachovia or other companies at the time.

MR. PALETTA: Amy, can you help us? I think a lot of Americans would look at the biggest banks now and they're bigger than they were. So, if anything, these financial companies are bigger in terms of assets than they were then. Should Americans feel like Dodd-Frank fix that whole issue of too big to fail or is that an overly simplistic way to look at it?

MS. FRIEND: So, Americans should feel confident that the financial system is far more stable, transparent, resilient than it was 12 years ago, 20 years ago, when Dodd-Frank passed. You're correct that these big institutions are larger. They are less exposed. The regulators understand the risk, the derivatives are now cleared and exchanged. I think we've seen a number of improvements in the system should give people confidence. We also created this orderly liquidation authority, which is a way to unwind a failed systemically unimportant financial institution that didn't exist during the crisis. So there you saw sort of policymakers go in back and forth. Lehman can fail; Bear Sterns can't fail. We are not allowed. AIG cannot fail because it will bring the entire system down. I think this is something that Senator Shelby shared Chairman Dodd on, which is how are we going to create a system where we can make sure that a failing financial institution is not going to bring the entire system down without a bailout. I think that Dogg-Frank put in place a very credible framework on the back end. I put in place a very strong framework in the front end. I also think the consumer protection is a big part of that, which is the consumer can be a canary in the coal pine, as they were leading up to the financial crisis, after the regulators had been focusing on the quality of these mortgages and stepped in and cone something earlier. We could have averted something that grew into this huge financial crisis.

MR. BARR: I can also say, Amy, just going back to what Andrew was saying, in the House it was in fact an agency. It was changed to a bureau in the Senate, Senator Corker's idea, by the way, a Republican. The partisan split over consumer protection was deep in the house. That was the lightning rod.

Everybody practically on the whole bill, they only paid attention to that. There was an amendment on the floor of the house that Chairman Frank allowed. He had the discretion not to and it was on the existence of a consumer protection agency at that time. So, it wasn't presidential appointment or not, as was decided yesterday. All of the laws that were transferred to the consumer protection bureau now were already in existence before, but the Fed and others chose not to enforce them, because as Andrew said, that conflict between safety and soundness, and they always deemed safety and soundness to prevail over consumer protection. That's why we need a bureau or an agency in itself.

MR. PALETTA: Jim, can I also ask you though about thepolitical/populous legacy of the financial crisis? I mean I think there was an element in 2009 when people were saying why can this guy get bailed out but I can't? Why is this bank getting bailed out but not me? .Now we have the whole thing with the paycheck protection program. Why is this company getting money, but I can't? Do you think the populous backlash to the crisis is something that still resonates with a lot of Americans now? Like, I'm going to get screwed, I'm not a big rich bank or private equity firm. Do you think Americans are just more cynical about the financial system and regulators now because of that?

MR. SEGEL: I think that's a good point. I think it did leave that and some of the pushback on the ACA led to the tea party which then was pretty cynical about all of government. It wasn't limited to the financial area, but, yes, some people made a lot of money, including those from the banks that had really exploited the subprime market. People walked away with still millions of dollars. So, yes, it was a problem and that's what Dodd-Frank tried to come and fix with much closer regulation, not only in consumer protection, but FSOC as well and other areas.

MR. PALETTA: And, Andrew, Michael mentioned at the onset on Fannie and Freddy and Money Markets. I mean, obviously there were some things that were just too hard to do, politically, it seemed like. You guys were barely able to get rid of the Office of Supervision. That was a huge deal. The fact that Fannie and Freddie are still in conservatorship all these years later, that money market funds had to be bailed out 15 minutes after the pandemic began. Is there a lot of unfinished business from the financial crisis that is never going to get sorted out?

MR. OLMEM: I think, as I indicated earlier, certainly we still have a very costly, complex, and fractured regulatory system that Dodd-Frank made worse. Certainly, I noted there are a few good reforms in there, but the overall direction was a big missed opportunity. When I actually look back now and see the key pieces of legislation that were passed during that era, it's not Dodd-Frank that really rises to the top. It's HERA, which is even less well known, Housing Economic Recovery Act, which dealt with the GSE's and we –

MR. BARR: Is that the Bazooka legislation?

MR. OLMEM: Yeah. That provided the framework to put the GSE's in conservatorship and Senator Shelby had been working on it for years. Democrats had really pushed back on stronger capital and stronger regulation on the GSE's. It was only until the crisis he was able to get the majority to push through a real strong bill. That finally has gone through. I think that was really important for finally getting the political support for that bill. That piece in this crisis has been instrumental. One other piece, I just want to go back to too.

MR. BARR: With an independent regulator with independence –

MR. OLMEM: The 13-3 authority, one piece that I think is often misunderstood there is that there is a connection between the 13-3 authority and the orderly resolution authority in Title II and what 13-3 really was trying to do was to say the Fed is not going to be in the bailout business anymore. If you have an entity that is failing, it goes to Title II. It doesn't go to the Fed's provisions. I think that is certainly an important step in the right direction. It really doesn't undermine the Fed's liquidity facilities. It does mean too big to fail really just depends on the personality to a point in your financial regulatory space, because that Title II authority is all dependent on what the regulators do.

Lastly, I think looking back on the crisis, one area that was not successfully done in Dodd-Frank that I do actually think has been a problem in this current crisis is that discount window lending is something that banks are still reluctant to do. If you look at the crisis, the discount window should be the #1 tool that we have in a crisis, and because of the unfortunate stigma and the concern about being called out going to the feds, our financial institutions or banks don't use the discount window the way they should. I think looking back, we should have spent a lot more time thinking about how to make sure the discount window is an active tool for policymakers going forward.

MR. PALETTA: One last question and we're out of time, but, Amy, can I just ask, Andrew mentioned HERA, which was bi-partisan, I think. Dodd-Frank was not. There were some Republicans that voted for it, but mostly Republicans opposed it. Now we're in a situation where there is a lot of bi-partisan support for initial phases of the response to the pandemic, but now it seems everyone has gone to their partisan corners. What is the risk, having witnessed that then, what is the risk we're in now of partisanship with the potential economic crisis at our doorstep?

MS. FRIEND: That's a good question. Let me first start by setting the record straight, which is HERA was under Chairman Dodd's leadership, joined by Senator Shelby. So, it had taken years to try to pass something to reform the regulator for Fannie and Freddie and the home loan banks. Ultimately, that was done under Chairman Dodd's leadership, but he did count on a very strong partner in Senator Shelby, which created this independent agency. I think what you heard Senator Dodd say is that passing Dodd-Frank, even though it was like a year and a half after the crisis, it was almost too late. So, during the crisis in 2008 that both parties came together. It was a Republican White House. It was a Democratic Congress. They joined together and passed the TARP legislation. By the time the reforms needed to go into place, right to address the systemic problem, a lot of that will had gone. I think the American people – the thought was maybe the American people have already forgotten. We've moved on. So, the admonition by Senator Dodd, I think is correct. If you want to make reforms to the underlying problems, and there are many underlying problems in this country that has led us to where we are now, now is the time to do it before all of the goodwill dissipates.

MR. PALETTA: Okay, great, guys, excellent panel. We could do this all day. I really appreciate it. A lot more excitement to come, but good to see everybody. Stay safe. Talk to you soon.

MS. SOLOMON: We'll take a quick 3-minute break and then get going.

MR. PALETTA: Thanks, guys.

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MS. SOLOMON: Hi, everyone. Thanks for joining us for this next panel, which I hope will be as lively as the last one. That was fun. So, I am Deborah Solomon. I am the Economics Editor at the New York Times. I'm very glad to be here moderating this panel with this esteemed group. I will quickly introduce folks, since you probably already know them, if you are here. Obviously, we have former Fed Chair, Janet Yellen, who was at the Fed leading us through 2014 to 2018 and obviously spent the crisis at the Federal Reserve Bank of San Francisco in the midst of a lot of the housing issues in California. We have Governor Lael Brainard who is in the middle of today's crisis, but also has been governor at the Fed for a while and was at Treasury during, I believe, the last crisis when the new administration took over, working with Mr. Geitner as the Deputy Secretary. Jeremy Stein, a former Fed governor as well, who has written a lot about financial stability issues and is now the Chair of the Economics Department at Harvard, and Dennis Kelleher, who is at Better Markets now, who advocates for financial reform and worked in the Senate for the Dodd-Frank debates.

With that, we're going to get started. This panel is looking at whether Dodd-Frank has reigned in systemic risk, which is very timely, given that there have been a number of developments this week that have brought that question to the fore, not to mention the last 3 months. Are we in month 3? I'm not sure of the crisis and how the financial system has been tested. I guess I want to start with Governor Brainard, mainly, because you are in the middle of this. Last week we saw the Fed release the results of the latest stress tests which included these 3 scenarios that put the banks through the sort of severe kind of recessions that we might see, whether it's a double dip, a V, W or U, whatever your alphabet letter of choice is. And what we saw was that some of the banks, about a quarter of them, would have come close to breaching minimum capital levels in a double dip scenario, and their loan losses would be more severe, even more than they were in 2008. Obviously, the Fed took some steps. They capped dividends at second quarter levels and prohibited any kind of buybacks in the 3rd quarter. The FDIC, on Monday, yesterday, basically said that there are big risks to banks that remain in terms of credit risk, interest rate risk. I'm curious to hear from you. Do you think that the banking system is better off than it was? Has Dodd-Frank reined in systemic risk at the banks? Is there more that the Fed should do at this moment to make sure that these banks can survive what is undoubtedly the most severe crisis we've witnessed in our lifetimes.

MS. BRAINARD: Good morning. Thanks for the question. So, I think it is important to note that as a result of Dodd-Frank and the enhanced prudential standards that were put in place by the board, large banks actually did work hard over the last decade to build strong capital and liquidity buffers and to improve their risk management. I actually think those reforms were vital in positioning banks to respond to COVID. They were able as a result, unlike the last financial crisis, to continue lending to households and businesses, to work with their customers who need assistance and to intermediate financial transactions, but my own view is it is a mistake to weaken core financial reforms at a time when they're clearly proving their value in the first serious financial crisis. As you've noted just last week, most of the banks (inaudible) likelihood that they need larger capital buffers to absorb losses under plausible pass for the economy. With few exceptions, the effected banks have announced plans to continue dividends at the same level. Of course, these kinds of payouts raise the risk that banks will need to raise capital or curtail credit at a challenging time in the recovery.

MS. SOLOMON: Janet Yelien, I want to ask you a question. I don't know if you watched the last panel, but Andrew Olmem who recently left the Council of Economic Advisors said that regulators were already on the path to increasing capital levels and that Dodd-Frank was not necessary and that it wasn't needed in order to get the regulators to increase capital levels in banks. However, what we've seen, and I think what Governor Brainard had alluded to, was that we're seeing some weakening of those capital standards at this moment, under this administration in part, some of this has been don under the guise of being temporary relief for the banks, but are you concerned that we're going in the opposite direction of where we should be. I mean, obviously, you don't want to create more stress for banks at this moment, but it does seem like we are weakening capital levels. I'm wondering what your prescription would be to make sure that we can ge through this crisis and the next crisis.

MS. YELIEN: Well, I think it's true that the Fed was taking steps, and the other bank regulators to put in place stress testing ad increase capital standards but I think that Dodd-Frank was extremely useful in providing a road map and a clear mandate for a host of changes that were put in place to increase the safety and soundness of banks in addition to the capital and liquidity requirements and the stress tests. I think living wills, resolution planning, t-lack requirements, the things that were in Dodd-Frank really have succeeded in making the banking system stronger.

The Fed always had the notion that there should be tailoring of capital and liquidity requirements to the system footprint of particular banking organizations. That's something that I agreed and I think most of my colleagues did. Some of the changes over the last 3 years or so that have been put in place are appropriate in tailoring requirements in that way, but there are a number of things that in my view have gone too far. Places where, for example, banks over 250 million dollars had diminished liquidity, requirements capital requirements, changes in a number of cases, well dissented, and I think if you look through the record and look at her dissents, you can see cases where regulatory relief went beyond what appropriate tailoring would require.

You asked about what the Fed is doing to ease capital rules now. I do think it makes sense when there is a crisis for the buffers that firms have built to be run down to be released when this system is under pressure. A lot of what the Fed has done since the onset of the crisis involves exactly that, encouraging banks to lend. There was a change in the supplementary leverage ratio to include treasury and bank reserves I'm not very enthusiastic about excluding treasuries, but with respect to bank reserve, it was something that I worried would complicate the conduct of monetary policy, and I think it became quite worrisome in recent months when the Fed was vastly by trillions of dollars increasing reserves in the banking system. So, running down buffers in a crisis completely appropriate, but I definitely agree with Lael. My guess is the others on this panel, that allowing firms to pay dividends at a time when the system is under stress like this is really inappropriate. It's not something I would have been supportive of.

MR. SOLOMON: Jeremy, I'm curious to hear your view on that, but also I wanted to mention that on the same day that the Fed basically warned that banks remained vulnerable to a severe downturn, you had regulators easing 2 other Dodd-Frank rules, the inner affiliate's swaps margin rule, which I know everybody knows what that is. It's a complicated rule, but it's important. And a vocal rule, obviously allowing for covered funds, for banks to invest in certain catch funds and private equity for funds. Obviously, Governor Brainard has dissented on the rules, covered funds piece, but I'm curious whether what you see is the trajectory of regulation at this moment. Jeremy and also Dennis, I'd love to hear you jump in on this as well. Do you think that we are doing sort of an appropriate tailoring or has it gone too far? Are you worried that we are destabilizing key tenants of the last lessons we learned from the last crisis?

MR. STEIN: At the risk of being too agreeable with my fellow panelists, I think I'm in sort of a pretty similar place. Like Janet, obviously there is a tremendous amount of new regulation put in place 10 years ago and there is no way everything is going to be completely right and we're going to learn stuff. So, of course, it makes sense to adapt and to tailor. Actually, with respect to Vulkar (phonetic), not so much with the private equity lease, but I always had my problems with Vulkar generally with the idea that you are going to sort of tell the difference between speculation and market making. I would have preferred to address that with very heavy capital requirements on those activities, but I really do agree with the proposition that if you pick out any one of these things, many of them seem reasonable or almost reasonable or benign, but the overall direction of travel is worrisome and I also think one of the lessons I've learned is it's not even just the rules, which are the most visible thing. I think if anything, we have learned that personnel really is policy. My biggest concerns have been not just with the rules, but for example, stress testing. If you had asked me two or three years ago what was the biggest good things to come out of Dodd-Frank was, I would have said the stress test. The 2009 S-Cap was incredibly important. It was too late, but it was a really incredible turning point in the crisis, and we all thought well, the great virtue of doing the stress tests every year is that we built the muscle memory and the institutional resolve so that when the next time comes, we need to aggressively recapitalize the banking system, shut off dividends, then we'll have a process that basically allows us to do that. I'm sorry to say, my sort of hope for the stress tests as that kind of crisis wartime device has faded considerably. You know, that's not in the rules. It's not a sort of formal regulation. It's in sort of how it's implemented, how it's thought about. It's very worrisome. The stress test has become something of a compliance exercise. One of the really disheartening things I hear this has become a bit of a mean from the banking lobby, is that somehow, because we had a stress test last year and in the stress scenario last year, we envisioned the banks paying dividends for 9 quarters. That somehow because they passed a year ago, under that purely hypothetical scenario, that it would somehow be damaging to the Fed's credibility or a violation of some kind of transparency principle, we are to shut off dividends now. To me, that's a complete subversion of the process. It's as if we said, oh, you know, 6 months ago, the Fed had their dock plot for monetary policy with higher interest rates and because there was a crisis and they cut interest rates, that they've somehow violated some principle of credibility or transparency. Somehow in the process of just going through this over the last several years, the expectations for what it can do or what it should appropriately do, I've changed. I agree with and applaud Lael's dissent on this. I think it was a real missed opportunity to both curb payouts and to provide some transparency, which was again a very important part of the 2009. So, I'm certainly —-again, it's not in the rule. It's supervision. What kind of a message is being sent to supervisors in the field, which are an important part and complement the rules, I think in an important way. So, I worry about that whole kind of positioning and attitude as much as I maybe worry about some of the individual and more visible regulatory changes.

MS. SOLOMON: Dennis, can you give us your thoughts. In particular, I'm curious. Can you talk a little bit about why it matters if the banks have capital? Who suffers first if the banks sort of run down their cushions and have nothing left? Do they stop lending or what do they do? Do they stop paying dividends or do they stop lending? What is sort of the impact for the real world?

MR. KELLEHER: Well, the good news is we don't have to guess. We can actually just look at '08. You look at 40 times leverage. It's not more of the systemically significant banks running into '08 and you look at, and I'll agree with Andrew on this, the failures of the regulators, including prominently the Fed before '08 of letting those banks run down their capital cushions. In '08, not only did the banks continue their capital distributions until Lehman collapsed, they continued them into December of '08. It's shocking that they were allowed to do that. So, the only thing standing between a failing bank and financial chaos in contagion is a taxpayer bailout. It's that simple. If you have capital, you're more likely to accept, deal with your credit losses, deal with the downturn, and not have to stick your hands in the taxpayer pockets. We saw exactly that happened in '08. So, the question is who in their right mind would allow that to happen now. I mean, you have the Fed Chair testifying right now. I have a lot of respect for Jay. Testifying right now about "the extraordinary uncertainty" facing this country and our banking system. Yet at the same time, the Fed is allowing the biggest banks in the country to reduce their capital cushions. It's nonsensical. History is going to be an incredibly harsh judge here if they don't have the good luck of the small percentage that they're not going to require more capital pretty quickly. It's really too bad because I do think there is no question Dodd-Frank reigned in systemic risk. In fact, Better Markets is putting out a white paper next week called, "No Financial Crash Yet". Thanks to Dodd-Frank and the banking reforms. Frankly, thanks to the 3 other panelists here and Janet Yellen's leadership. It was a very good job done under the Obama Administration of —- and let's remember this point —- forcing the banks to become more resilient. None of that was done voluntarily or willingly. In fact, it was done over their aggressive, fierce opposition. I always kind of laugh. The banking CEO's now say we're so strong. We can help support the economy. We're glad to do that. Well, if all their lobbyists had been successful, they wouldn't be able to do that. They are able to do that because these 3 regulators and others forced them to build up their capital and liquidity. When they say, oh, well, they were going to do it anyway because Dodd-Frank was irrelevant to it, well, they were not in different universes. The momentum behind financial reform in Dodd-Frank and the obviousness of the deficiencies of capital, liquidity, stress testing, resolution planning, down the line, were obvious. The Fed isn't going to sit there and say, "Well, let's just wait until we get a law". They did their job, but they started parallel with the legislative process of getting these banks more resilient. Then Dodd-Frank happened on a parallel track, creating the authority's mandates that required them and the other regulators to do it. You are also right, I agree, and as Jeremy says, I hate to be too agreeable, but how can you in the middle of an unpreceded pandemic where the future is unbelievably unknowable, you can pick your letter of the alphabet to how this is going to play out, but most of those play out pretty badly. Yet, the banking regulators just took 40 billion dollars out of the margin and the derivatives market, one-third of the entire amount of the margin in the derivatives market, which is a capital cushion, which is a protection. It's like the down payment on your house. You take that and the vocal risk. I disagree with Jeremy here. Eliminating proprietary trading is incredibly important to the safety, soundness, and resilience of the biggest banks and taxpayers really should be backing the gambling of big Wall Street banks because what happens is the banks get bailed out. The American people get the bill. Thirteen months after Lehman crashed, the U-6 rate, the larger unemployment rate in the United States was 17 percent. 27 million Americans within 13 months after the Lehman crash were out of work. Actually many were heads of households. That impacted almost 50 million Americans. That's who pays the price for regulatory failures to make banks stay strong, stay strong in good times, and make sure they stay strong in bad times so that the American people don't both have to suffer the economic calamity they cause, but also have to pay to bail them out. That's what's at stake.

MS. SOLOMON: You know, one of the things that this crisis seems to have exposed is that the banks are well capitalized. We're not having another Lehman right now. They are spread out now okay. The non-bank sector, however, there seems to still be these pockets, these areas, these significant areas of risk and weakness that we've seen the Fed have to go to extraordinary lengths in this crisis to prop up. I mean, within 48 hours of things going haywire, they had to intervene in the treasury market. They had to intervene to help the hedge funds that had these basis trades that they need to unwind. The money market funds, this was discussed on the last panel. Chair Yellen, I am wondering if you could talk a little bit about, has there been a failure of regulation to address areas of risk that regulators have known about, but have not really done much about? Was Dodd-Frank an avenue to get those areas under Federal oversight and did we miss that opportunity?

MS. YELLEN: That's an important question. I think most of the problems that you just mentioned were areas of risk that were well known before the pandemic and weren't addressed. Some of them were on FSOC' s to do list, but then were dropped by the Trump Administration. A couple of examples -– you mentioned hedge funds. Well, FSOC formed a working group on hedge funds and that group found that there were a few hedge funds that had taken on a lot of leverage. The working group recommended follow-up. As far as I can tell, that working group was disbanded. The pandemic showed that the risks were very real and serious. A group of these funds had taken on extreme leverage, engaging in basis trades in the Treasury and the Treasury future market. When volatility strikes increased in March, they faced margin calls. They sold off massive quantities of Treasury's. It only required 2 trillion dollars' worth of Fed purchases of Treasury's to deal with that. Had the Fed not done that, we probably would have had another long-term capital management type episode. Let's take a secondary, asset management. FSOC had identified dangers relating to open end mutual funds that offered daily liquidity while investing endless liquid assets. That would include high yield corporate bond funds, leverage loan funds. They experienced large outflows in March. Again the Fed stepped in with establishment of the prime and secondary corporate credit facilities to relieve those strains, but these were things that were well known. Money market funds, another example. It was almost impossible for FSOC to get -– that was top of FSOC' s to do list when it was formed in 2010. It was incredibly difficult for FSOC to persuade the SEC to address systemic risk in these funds. I very well remember a speech by an SEC commissioner who said, "This simply isn't our mandate", and I do think a big problem here was FSOC was not given any powers of its own to address things like money market, reformer problems, asset management, or hedge funds. The SEC and other regulators also didn't have any change in their mandates that would force them to address systemic risks. This commissioner gave his speech, saying this simply isn't our job. Well, in the end, they did do something, but they also did something that almost all economics, including most people in the Fed who are very unhappy about, they allowed funds or insisted that they impose gates and redemption fees once liquidity fell below a minimum. Most economists thought that the erection of the gates by one fund would cause outflows in contagion as people tried to avoid having that happen to them. I think that's exactly what happened.

Finally, I think the last area that I would point to is leverage lending. Leverage lending skyrocketed in the years before the pandemic. Non-financial corporate debt rose to levels we haven't seen relative to income in the United States. Many regulators, including me, expressed concern about deteriorating underwriting standards and rapid growth. There were a lot of different reasons to worry about this development. One of them, I think, is that firms that have overhangs of debt, are usually reluctant to hire an invest. Personally, I think that's something that would make the current downturn deeper and longer lasting. So, a failure to address many of these things, these were things that were known, they weren't addressed, but what was the problem. I think important it's that FSOC doesn't really have any powers of its own to regulate activities that give rise to systemic risks, only really designation. That has been neutered by the courts and FSOC itself. The agencies weren't given explicit financial stability mandates. The Fed was sort of given such a mandate, but only to make the systemic banks safer. If there were developments like leverage lending that posed that maybe banks are engaging in, the post risk to the economy and the financial system but aren't major concerns with respect to safety and soundness of the banks. It's not obvious to me that the Fed has an explicit mandate to do something. I would say the one tool we did use to address leverage lending. We issued supervisory guidelines in 2013. That was a weak tool in intervention to start with, and then Congress, the GAO, the OCC, and others pushed back. So, there really are problems here, I think, in the powers created by Dodd-Frank and we've seen it all blow up except for the Fed intervention. That saved us from a financial crisis.

MS. SOLOMON: Governor Brainard, you chair the Financial Stability Committee at the Fed and obviously, the Fed has mentioned in many of their reports some of these risks that Chair Yellen has talked about, in particular, hedge fund, leverage loans. The Fed has been put in this position, having covered the ’08 crisis, is kind of amazing. Back then there was a lot of criticism of the Fed and there was this effort obviously to take away their power, but now the Fed has ben sort of the last firemen at the party, having to go in and fix all this stuff. Do you think there is, coming out of this crisis, do we need to figure out a new way to address risks outside of the banking sector, so that the Fed is not constantly put in this position or do you think this is just, this is not the kind of thing you can ever really prevent through regulation or oversight. This is just Wall Street being Wall Street.

MS. YELLEN: No, I absolutely think that the kinds of risk that Janet Talked about in the non-bank financial sector were not only predictable, but well documented and can be subject to an expansion of the regulatory perimeter I think we have now seen, not once, but twice, in only 11 years, tables set (inaudible) economic story of American families and the ability of our businesses to invest and expand. So, I think from that, the most important lesson is that you can’t predict shocks and that financial stability authorities and regulators have to be wary about developing a false sense of security. That’s precisely why Dodd-Frank was focused on making the financial system more resilient. That was the entire financial system. It’s important also in our financial stability work, which you noted, our focus is not trying to predict shocks. They are inherently difficult to predict, but trying to highlight and address where we can, the potential vulnerabilities. So, money markets are still fragile (inaudible) still pose risks and we saw that with the prime money market outflows that we saw in March of 2020. You’re right. The Fed came in to shore up those markets. It is true that open ended funds where you see a concentration of assets with low liquidity, also in an area that have been called out repeatedly in financial stability analyses and thereto, there has been really no movement to address those kinds of activities from a prudential or even from a non-prudential perspective. We have also known the nature of capital markets that have changed a great deal and a lot of financial stability oversight of those changes. Now, there are some areas that we have seen important changes.

The enhanced prudential standards for the banks, we’ve already talked about the designation of financial market utilities has been extremely important. We saw those platforms functions well during a period of extreme volatility during the period of March, but more broadly, FSOC non-bank designation power really has been weakened very substantially. I don’t see that we have made much progress or seen much progress on activities-based regulation.

MS. SOLOMON: Jeremy, talk a little bit about the FSOC. The last time I discussed it a bit, but this was supposed to be, and I agree with Chair Yellen it doesn't have a lot of power, but as Governor Brainard said, they can designate non-bank financial firms systemically important. They are supposed to be sort of the connective tissue between all of these agencies which we're not discussing or coordinating before the latest suspected before the last crisis to try to make sure that everybody is sort of seeing the risks that are out there and hopefully doing something about it, although it is up to the individual agencies. Has FSOC been a useful tool? Has it helped to make the financial system safer or was it basically just an exercise in futility because it has become such a political football that depending on the administration, you can decide what their priorities are for any given chair to pursue?

MR. STEIN: We need to sort of sidestep here the most direct part of your question, which is I agree with a lot of what Janet said about the weaknesses and the failings of the FSOC. I agree totally with sort of the diagnoses of we didn't do the kinds of things we should have done with respect to open bond funds and the like. I guess I want to sound a slightly more pessimistic note in the sense that I would like to do many of the same things that I think my fellow panelists would like to do, but I think in some cases it's really hard. It was the FSOC' s job and the FSOC didn't get it done, but I think it would be hard. It's very hard to do regulation of the non-bank part of the very sort of innovative capital markets dominator. You can criticize the FSOC or the SEC for being unsuccessful with money market funds. For God's sake, they kind were the ones that nearly blew up the world last time. So, if you couldn't figure that out, that's pretty bad. Think a little bit about how the world of rapid growth and leverage lending, a lot of this being held by these open-end vehicles. So, I remember discussions in 2012, '13, where people were saying, Geez, that's better than we post and answering of corporate bonds. It isn't leverage. Like in a market economy, the investors in mutual funds lose money, isn't that capitalism? Well, of course, I think the better analogy would be if it's got like -- liquid loans is on the left side of the balance sheet and it's got daily liquidity on the right-hand side. That kind of looks like the bank kind of has some problems, but it was not obvious and the industry was able to point to the historical fact that that vehicle has not as of yet brought down the economy. So, it's a bit of a leap for any regulator, even a sort of well empowered one, to aggressively go after something that we have the foresight to think about is a problem but has not manifested as a problem. Then as Janet pointed out, even this time, thanks to the Fed being able to intervene very aggressively, they still haven't blown up the world. So, I think it's just hard. Of course, I'd want to do better in all the ways that everybody else wants to do better, but I think at some point we also have to think about how do we make policy and how do we sort of think about a world where we're just going to be pretty limited. We can surely do better with the banks. We can surely do better with the stress testing, all the things we can talk about, but this is a world where there is a tremendous amount of innovation and last time's problems sort of work themselves into a somewhat different version this time. Given the way authorities or regulators are kind of distributed, what used to be a problem in the banks, is now a problem in the bond funds and it's just, it's deeply hard. Then you get uncomfortable questions about in a world where we just have to admit that this kind of regulation is deeply imperfect, what are the other tools we can bring to bear?

MR. KELLEHER: It's just not that hard. Come on. I mean, look, you have the banking sector and you have a shadow banking sector. You have a heavily regulated banking sector and you have a unrelated unregulated shadow banking sector. So, you have a migration of risk, the costly banking sector to the shadow banking sector. The idea behind FSOC, as well as some other shadow banking reforms in Dodd-Frank like derivatives importantly, was to try and eliminate the regulatory arbitrage, which is primarily what is driving this. This is not a mystery. This is not just innovation. I wouldn't agree completely with Paul Volker about the ATM being the only worthwhile innovation. On the other hand, most of innovation is creation of complexity for the purpose of regulatory arbitrage, to externalize the cost and ship them to taxpayers. The job of regulators, whether it's the non-banking system or the banking system, is to stay one step ahead of that and protect the system. It protects the public interest. I disagree that it's all that hard. It's actually pretty obvious what's going on. Anybody who didn't know what was going to happen with money market funds could read, oh, I don't know, Better Markets comments on this. It happened in '08. They didn't fix it. It was obvious they didn't fix it. FSOC under Chairman/Secretary Geitner tried to move the SEC on that, although that's a poster child on regulatory capture. That's not a mystery of what to do there. That's not difficult. That's the political will to follow the law and prioritize the public interest. Period. Full stop.

Now, it doesn't mean that FSOC is perfect. FSOC is a classic example of a force that's made by committee. So, there are a lot of compromise that have to go in. I think Chris Dodd referred to this earlier. The Dodd-Frank law isn't perfect, but it is the best law that the political process could produce at the time. It gave FSOC plenty of authority. Frankly, the Fed has plenty of authority. In fact, Chair Yellen refers to the guidance on reference lending. That's what they had to do, but let's look at what happened to leverage lending before the guidance and after the guidance. It dropped precipitously after the guidance. So, you can say the Fed didn't really have any authority, but the truth is, every time the Fed opens its mouth, every bank in America pays attention. They don't go to the statute and say did they exactly have that authority. That doesn't mean that they should ignore that or think that it isn't there, but they have plenty of authority to get the industry to do what it should do and almost always, they've got the specific statutory authority or they've got the supervisory authority and they've got numerous tools to do it. FSOC does too. I'm not in any way suggesting that it's perfect or that it's enough and it's clear or that it couldn't be better, absolutely could, but FSOC got off to a very slow start, made some big mistakes in the beginning, notwithstanding best efforts in good faith. I mean, when you look at the list of companies that got bailed out in '08 in the shadow banking system. You look at them, a long, long, long list. You all know them well because you were sending the checks to them, trillions of dollars and cents in '08. What does FSOC do when they're supposed to regulate the shadow banking system? Okay. AIG, obvious, GE, also obvious. Look at the rest of the list. What happens?

They designate 2 insurance companies. It took them how many years to write their procedures, to figure out what they were going to do or how they were going to do it? By the time they got their act together, all the public ability to get things done were largely dissipated. So, they ended up not doing a very good job and they really laid the groundwork for the Trump Administration to come in and flat out kill it. I mean, FSOC is a zombie, right? It's there in form, not in reality. They both kill the designation authority by working with the private sector to kill the litigation so the D.C. circuit couldn't even review a grossly, grossly, groundless decision by a district court, and the FSOC is going to have to live with that, but at the same time, moving to say look, we're only going to do designation of activities. That may be fine, but why you wouldn't use all your authority on the entity designation side and on the activity designation side and use OFR and use all the tools. OFR is one of the most powerful, independent agencies we created in Dodd-Frank and we created it for a reason. That too has basically been neutered from the beginning.

MS. SOLOMON: We only have a few minutes left. I want to ask something. This came out of the last crisis. Right? We're in a new crisis. I'm curious. Governor Brainard, do you see any impetus for ways to curtail risks that we know exist and that have exacerbated some of the problems that we're seeing in this downturn? Do you see any momentum? What would you suggest we do coming out of this to try to make the financial system more resilient or to play devil's advocate, is that never gong to happen? Are we just going to have to rely on the fact to basically bail out every hedge fund, every ETF fund that gets into trouble because there is no political will to really address some of these problems?

MS. BRAINARD: (inaudible)….social distancing which is having a positive effect. The economy seems to have bottomed out. We're seeing some encouraging signs of recovery. On the other hand, we're seeing some resurgence of the virus. So, right now my focus is on steering through a very uncertain recovery and continuing to provide necessary support to American households, to American businesses. I do think that very quickly, once we have come through this very challenging moment, it will be a time to look back and make the necessary changes to those areas where the work of financial reform is incomplete. To be fair, there will always be new areas. So, as regulators, our job is to do what's not always popular to help the financial institutions prepare for risks that they're not anticipating, that may be not able to be anticipated because we know that those risks will materialize. We want them to be resilient.

MS. SOLOMON: Chair Yellen, I'm just curious, just quickly, do you agree that we should reflect and come out of this with new found regulatory zeal or do you think that given the current environment that we're in that this is just going to be a perpetual game of cat and mouse?

MS. YELLEN: Well, I think when this immediate crisis is over and I agree with Lael, we should focus on getting through this and doing what we need to recover, but when we do, I think we should reflect on the lessons from the crisis. I personally think we need a new Dodd-Frank, that we need to change the structure of FSOC and build up its powers, to be able to deal more effectively with all of the problems that exist in the shadow banking sector. Dennis said that the Fed has powers and there are things we could do. FSOC had some things it could do. That's true, but I think the structure is adherently flawed. I think the agencies need to have a definite financial stability mandate and FSOC needs, as Dennis said, both the power to deal with individual non-banking firms which pose systemic risks which it's now completely neutered. It will be almost impossible to use, but also it needs the power to regulate activities. That would be my view, coming when this is over.

MS. SOLOMON: Thanks, everyone. I could spend another hour dong this, but I know we've got to make room for the next panel.  Thank you. I really appreciate it. Thanks to everybody who attended today.

MS. STEWART:  My name is Emily Stewart.  I'm a reporter at Vox, and we are talking about the CFPB today, and we had some big news yesterday out of the Supreme Court.  Though I imagine we have stuff to talk about, I was happy to see this come out.

So first, I will introduce everyone.  We have Mehrsa Baradaran, she is a Professor of Law at the University of California Irvine, author of *How the Other Half Banks* and *The Color of Money*, which (inaudible) with the former director of the CFPB; Lisa Donner, the Executive Director of Americans for Financial Reform; and Cam Fine, President and CO of Calvert Advisors.  He used to be the head of the Independent Community Bankers of America.

So, I will hop in.  obviously, we know where we want to start, which is, what you all think of the Supreme Court decision yesterday.  I know, Rich, you had an op-ed about it.  So, what do you make of it?  Now, the President can fire the head of the bureau?

MR. CORDRAY:  Yeah, I thought that that was pretty inevitably going to be the outcome in the Court, at least five Justices.  As it turned out, it was exactly five Justices who felt that that is necessary under the Constitution.

I think there's a good argument to the contrary, but (audio drop).  So, it will be relegated to the dustbin of history.

There were three practical effects of the decision that I talk about in my op-ed in the Washington Post today, which are, first of all, that now, the constitutional challenges to the Consumer Bureau are complete, finished, and has left the agency standing and operating, which was not a give-in when this litigation commenced seven years ago.

Second, no longer will companies in enforcement action will be able to raise the objection that there's a constitutional problem with the Bureau, which gummed up a lot of enforcement actions because instead of getting at the misconduct of the companies and exposing the facts, the Bureau was distracted into litigating this issue, often delaying if for months or years, and never quite getting to the meat of the issue.

And the third point is that the Bureau will now potentially have a new director as soon as January 20th if there is a new president. Of course, there may or may not be a new president, but rather than having a five year tenure provision that is immune from being fired, unless for cause, the Bureau’s director -- as it happens, Kathy Kraninger now in the spot -- is now subject to the uncertainty of the election process, which is no different from Cabinet officials, and as a practical effect, it makes the Bureau’s operation much like a Cabinet department, but does happen in this case to mean that the tenure of the current director is now more tenuous than it was before the decision.

MS. STEWART: And so, then I guess my follow-up is, should Kathy Kraninger be fired in January 2021? I guess I'll kick that to you, Lisa. Does this mean if Joe Biden is elected, she loses her job?

MS. DONNER: I do think that she should be, yes. And I actually think that there would have been grounds to fire her, even had the standard not changed, because she has so grossly not carried out the mission, the consumer protection mission of the agency; but now, that situation has clarified it and been made easier.

I'll add -- I have, and I imagine my fellow panelists, as well, have a lot to say about what the Bureau should be doing now, and isn't.

I'll add one other thing on the Supreme Court’s decision, which is that we’re already seeing from some quarters a call to sort of go back to the next under-row (phonetic) of the long standing efforts to weaken the Bureau, which is to move from a single director to a commission.

And I imagine there will be -- as there have been in the past -- efforts to claim that consumer advocates should want that move. And maybe now we should want it because maybe then we can get rid of the presidential removal, and our community certainly does not want that we continue to think that a single director is both more effective and more accountable in protecting the public and carrying out the mission of the agency. So, I just wanted to kind of add that piece of the story there.

MS. STEWART: So, Cam, I saw you make a concerned face (laughter). I'm curious what you think of that because I think you might be on the other side of this argument, yes?

ME. FINE: Yes. I, like Rich, expected the decision yesterday, and the Court did not invalidate the Bureau or it's prior actions, or anything else. It just severed away the tenure piece of the law. That's all it did.

So, now we're faced with a prospect of having a new director every time there's a new President -- as Rich points out, somewhat like a Cabinet agency -- except this is not a Cabinet agency. That's a different animal. Cabinet agencies are much different.

So, unlike in a cabinet agency where change generally comes fairly slowly, the CFPB can have immediately impact on the institutions it supervises. And if you have two ideological opposites switching chairs every four years, or eight, then you're sort of weaving around, like a DUI on the policy highway, you know. Your policy car is weaving from side to side on the policy highway.

We -- or I -- believe that an FDIC, or Federal Reserve Board structure is superior in that it smooths out inconsistencies. It's much harder -- it's not impossible, and it can happen -- but it's much harder for a single President with a strong ideological bent to immediately impact an agency if it is guided by, say, a Federal Reserve Board.

Nobody questions that we should just only have a chairman of the Federal Reserve and that's it. Just a chairman of the Federal reserve -- no Board -- and that chairman would have absolute, unbridled policymaking power. I think that can be dangerous in the wrong hands.

So, while I was glad that the Court did not interfere with the Bureau itself, I do think that the governance structure does need to be looked at.

MS. DONNER: Can I respond to them.

MS. STEWART: Yeah, go ahead.

MS. DONNER: So, I appreciate that, but I think that the most important goal of the Bureau is not consistency. The most important goal is consumer protection and standing up for the public interest.

And I think the principles of accountability and the kind of greater efficiency that a single -

- and being nimble enough to do that -- that a single director provides from the perspective of consumer protection, which, again, is the agency's mission, based on our experience watching many different regulators at work, are the most important guiding us.

What maintains consistency is the rule of law, right. We need directors of the agency, of any party -- appointed by presidents of any party -- to act based on evidence, to act in accordance with the Administrative Procedures Act, to consider the facts, to hear from all parties, and making sure that those rules and those norms are vigorously enforced and act on, are the ways to prevent veering consistent with effectively carrying out the public interest mission.

I think, you know, it's true with regard to the CFPB, as it's true with regard to all the financial regulators, that there are a whole bunch of structural factors that disadvantage the public as compared to industry in having their voices and interests heard, even at an agency with a director who is attuned to listening to those interests.

And so, increasing the accountability to the public rather than to the regulated industries, is a paramount feature.

MR. CORDRAY: Good I come back to that, it's Rich. The idealized notion of administrative agencies always was that they would be these sort of nonpartisan, thoughtful, deliberate, consensus-oriented bodies that would look out for the public interest and take on the special interest in whatever field; whether it's energy regulation, or communications regulation, or in this case, financial regulation. It never quite worked out that way in practice.

And where there are strong feelings on both sides of the isle about certain issues, those bodies have tended to be more politicalized. Think of the NLRB on labor issues, it swung back and forth dramatically over the years. And the same has been true here thus far.

However, there is a glimmer of hope because we could potentially arrive at consensus around improving these markets in ways that both industry and consumers could appreciate. And I think what happened in the mortgage market, in the wake of the Dodd-Frank Act, is a good example of that.

The rules and regulations that restricted some of the exotic high-risk products were very important and very powerful, and they improved that marketplace.

I think nobody in the mortgage industry would like to go back before those regulations were put in place and before the changes of the Dodd-Frank Act. And in fact, as you look at this current crisis, the issue of foreclosures and bad loans has not been anything like what it was in 2008/2009.

So, there is some glimmer of hope that sound regulation and sound, even-handed enforcement can be good for both sides. But we're still in the midst of a lot of politicization of this Bureau.

I was never able to fight my way through that myself. Perhaps, I contributed to it in some respect.

But over time we'd like to think that people would come to see that protecting consumers in the financial marketplace with good, sound regulations and even-handed enforcement is in everybody's interest, even if it's not in the short-term interest of some of the financial companies.

MS. STEWART: Yeah. So, to kind of move into the current moment, one thing I do want to talk about is where the CFPB can and cannot respond right now, and where it is and it's not.

We are obviously in a pandemic, an economic crisis; we are also going through an enormous racial reckoning, and we know that debt and credit are very different for Black people and Brown people experience, as it is for White people.

And so, I did want to talk to you a little bit about where can the Bureau meet the moment on this and where can it not? And where does it really need to be looking?

MS. BARADARAN: I want to make a comment in general about the CFPB structure before I start. One thing, when we talk about politics, there's politics but then what we're really worried about is capture by industry, right.

When you have an agency, and you put The Fed and the FDIC in here, and the reason The Fed and the FDIC are more independent and are better able to regulate is because they have their own -- they don't have to go to Congress hat in hand for funds, they have their own financing structure, the FDIC has it's own fund that they have to protect.

And then, contrast that with the OCC and the OTS that are paid, basically, by -- you know, they're in competition with state regulators, they're paid by the banks that they regulate. And so those regulators have a reputation of being captured.

And the thing with the CFPB, I mean, the point was to make a strong agency that cannot be captured by the industry, because if you look at the firms that the CFPB regulates -- you know, your payday lenders, all sorts of creditors that have every incentive to spend tons of money lobbying against these rules. And then on the other side you have people like Lisa, and that's it! Right.

And the consumers of America, you know, who are low-income and don't have -- so, this is about political power. It's not necessarily democrat versus republican. It's just, how powerful is the industry.

I think you go down the list -- I mean, I teach administrative law -- you go down the list and you look at agencies where the industry that they're regulating is highly motivated and highly powerful, and then the other side is just the American public. Those industries are threatened by capture.

And so, that's the play on the CFPB right now. And I think it survived, but it is the case that -- even in a democratic administration -- you can have capture; I mean, see Obama Treasury, different note.

On the racial wealth gap, I think this is a massive problem. It is not a problem that agencies have taken seriously. I do think they have tried to take seriously over time.

Every Federal banking agency -- The Fed, FDIC, CFPB -- has jurisdiction on this, you know, through the CRA, or through their Minority Business Office, through CDFIs, it's been really all over the place.

It's been focused on getting more Black banks in these neighborhoods. It's been focused curtailing some predatory products; subprime prices really hit the Black community hard.

But there are broad structural issues created by banking and credit policy -- redlining, ongoing credit discrimination -- that really needs to be targeted by these agencies. And you saw this in the recent crisis.

I mean, both in the way that COVID-19 disproportionately affected Black communities. And two, in the way the response to COVID -- the CARES Act, the PPP loans -- disproportionately kind of passed over Black communities in ways that were, I think, not at all surprising, just giving the way that the banking sector is set up. But it's something that we should be putting front and center.

I mean, that is ten years post Dodd-Frank. The Black communities that lost their wealth during subprime crisis have not recovered. And I think when we talk about general recovery, there's been devastation that is ongoing.

MS. STEWART: Yeah. I mean, I guess, kicking it Rich for a second. What keeps you right now -- in terms of what the Bureau can and cannot do, and just what American consumers, the American people, are facing -- what keeps you up at night right now thinking like this will be the next big scary thing?

MR. CORDRAY: Well, what keeps me up at night is that we have just started into what has been a dramatic and incredibly fast recession.

Now, perhaps it will bounce back quicker than a normal recession would; we will see. But once the economy gets to be disrupted, it usually takes time for it to heal.

In the early stages of this we had a lot of support for families and households in terms of their incomes and their means.

We've had support through the stimulus checks, we've had support through the unemployment bonuses, which had distorted the labor market to some degree, no doubt, but it provided spending money for households to keep them from going, really, belly-up.

Individual households going belly-up is a dramatic problem for the economy. That’s why we've had foreclosures and forbearances at lower levels. I do think the mortgage rules have also contributed to making a better market there.

We've had fewer people in deep distress but it's going to be happening. Some of this support is now being withdrawn and some of it is ending. People are going to be in trouble, and we need a consumer agency right now that is all the more zealously focused on protecting consumers.

You can’t say about this crisis that it's all about businesses and relieving them from any kind of duties and obligations, because if finance companies are relieved of their obligations, they are not going to serve consumers.

They are not going to deliver the kind of relief that the CARES Act promised households. They are not going to look out for people and make sound decisions that actually advance the interest of consumers.

And some of us -- two colleagues and I, Chris Peterson and Diane Thompson -- put out a white paper with 16 different things that we think that this Consumer Bureau should be doing more of right now for people who are behind on their debt, for people who are going to be reported to the credit reporting agencies and may not get the protection that the law now has supposedly afforded them.

People are going to be in danger of being ousted from their homes because of rent nonpayment or mortgage nonpayment. All of those things are problems.

By the way, I would add to what Mehrsa said that people like Lisa and her colleagues actually prove to be quite formidable if their voices are heard because they do speak up for consumers across the country, they do pay close attention to what consumers need, and they reinforce that voice to the Bureau, and it helps prevent capture, of the kind that you're talking about, Mehrsa. Otherwise the agencies tend to only hear from the loudest voices in Washington, which are the special interests who have the most clout and the most influence.

The Consumer Bureau, we tried to set that up so that it was having more focus on the voice of the consumer. I talk about that in my book, “Watchdog” chapter 5, “How the Voice of the Consumer (inaudible) Right into the Agency.”

But consumer advocacy groups were really important for advancing the interest of consumers and pressing that agenda. And it's important for the Bureau to be listening carefully to all sides if it's going to create balanced, sensible policy.

MR. FINE: Let me interject here to your question, and to some of what Rich said.

There's no question that when the Administration changed in early 2017 that the Consumer Bureau went from a very proactive, aggressive Bureau to a reactive Bureau. It’s very reactive now. And they have basically set a higher bar for consumers to go over before they will act against some perceived problem, some perceived injustice toward a consumer.

There's no question about that. It's much more reactive than proactive. There has to be a balance.

Obviously, if you're in a crisis like the pandemic we’re in now, and you don’t ease off of some things on the businesses, then there's no business for the consumer to go to because the owners of the business go out of the business, and they're as broke as the consumers.

And so, if you go too far one way, you drive the businesses down; if you go too far the other way, you hurt the consumers and the spending.  It has to be a symbiotic relationship.

And that's what community banks, the people that I represented -- and I was a community banker for 30 years -- we had to constantly balance those two dynamics.

That's the dynamic.  The dynamic between the business and its ability to sustain itself, and the consumer, and providing a fair and quality product.  And that tension is always there.

And community banks whole business model is a relationship model because community banks are so small, they can't afford to go around screwing consumers in a town of 4,000 people, or there's no bank to do business.  So, I agree with Richard that you can't cut all the breaks to the businesses.

You also have to understand that the businesses have to survive.  Without their survival, the consumers have nothing.

And one thing that I want to say to Mehrsa, one thing I was very proud of, Mehrsa, is ICBA, within its membership, had several dozen minority-owned financial institutions.  And over 12 years ago -- I'd been the CEO for about 3 or 4 years -- we created a minority bank council.

We met with that council regularly in Washington, and we fought hard to try to get the recognition that those banks faced obstacles that the other banks, the nonminority-owned banks, did not face.

Most of them were in inner cities.  Most of them had higher hurdles.  We didn't think their examinations were tuned to the challenges that they faced.  And we fought hard for those banks.

Several of those banks, I think, would have gone down during the last crisis had our organization not stepped in with the prudential agencies and said, "Look, you've got to understand, these peoples face challenges not faced by the other banks."  So, I did want to say that.

I have a reputation about not being in love with the megabanks in Wall Street.  And so our whole thrust about the CFPB was fairness, and leveling the playing field between what community banks did vis-a-vis consumers -- and Lisa's group, for example -- and how -- I'll just randomly pick a bank -- The Wells Fargos of the world treated their customers.

MS. BARADARAN: I mean, I will back that up. I agree because a lot of the subprime crisis that targeted Black communities didn't come from Black banks, it didn't come from community banks necessarily. It came from nonbank lenders, the Wells Fargos, the Wachovias, the Countrywide; it was a specific subset of large banks and nonbank mortgage originators. So, absolutely.

And I think the same threats to Black-owned banks, and minority banks in general, and to minority communities, are the same threats that are killing small and community banks. It's the conglomerations, the monopolies --

MR. FINE: Mm-hmm --

MS. BARADARAN: And it's the power. It's just a market share that dominates a sector. And so, when we talk about capture, it's that also. Citibank captures -- or Wells Fargo, we'll use your example -- if they're getting all the rules that benefit them, then the community banks are struggling uphill.

I mean, the stress test is an example. We really do have a situation where we're not really better off than we were on all fronts. But I guess that was the last panel.

MS. DONNER: So, I hope we'll come back to sort of big changes for the future needed to address this, but I want to take one more second around at coming back to being sort of more concrete about what the Bureau could be doing now, and isn't, because I think in this moment of crisis, right away -- and the paper that Rich and Diane and Chris wrote that he referred to, I think, does a very good job of letting this out -- they should be using their supervisory authority to check for consumer abuses.

They should be using their unique ability to collect data and to see things that individual consumers can't to find out what's happening to prevent abuses, and at the very least, hold companies responsible to comply with the law in places where failing to comply right now will have devastating consequences for people.

If mortgage servicers aren't doing what they're supposed to do in terms of telling homeowners about their rights, people will lose their homes despite a law in place to protect them. If the credit reporting agencies are not reporting correctly where there's been forbearance, or there's been an agreement on not paying a debt, folks credit scores are going to be permanently harmed.

These are problems immediately, and they're also problems that one more time will punish more, hurt more, those who are already being hurt more by the ways in which the crisis is kind of -- ramifying (phonetic) through a system built by structural racism where people of color are the hardest hit in multiple ways.

So, there's a lot at stake in the Bureau overseeing -- using the authority it has now to supervise and enforce, right now, and it isn't doing that.

And in fact, most of the steps that it's taken have been deregulatory steps, have been steps that make it harder to see discrimination, that tell servicers, “Never mind getting people information in a timely way.” That tell a credit reporting agency, “You don’t have to fix that problem,” even those things advertised as consumer protection.

Meanwhile, they're charging ahead with a deregulatory agenda which will have additional devasting effects on people. Charging ahead with a rule to deregulate payday lending, to once again allow payday lending, or to continue to allow payday lending at 300% interest rate in a moment where, I think, the crisis makes it particularly obvious, that unaffordable credit for people having a hard time is not access to credit, it's a burden that makes their life worse over time. And to be giving the green light to that, at this moment, and failing to take protective action, is really, I think, a devastating failure.

MS. STEWART: That is one specific point I did want to talk about, which was this payday lender rule that seems to be coming down soon.

And I guess I'll ask you Mehrsa, what does it look like, that we are in a moment where a lot of people -- if not now, very soon -- will not be able to afford very basic things, that we are going to kind of open the flood gates, perhaps, for payday lenders to work with them.

MS. BARADARAN: Yeah, I mean, this is a windfall for the payday lending, any sort of title lending, any sort of fringe lending sector, because you have -- the stimulus payments were great. For most people who lost jobs, it's not going to be enough to cover rent and expenses.

I mean, looking at -- I kind of tracked how much people are getting and what typical rent is for places like Los Angeles. And I'm not talking about real expensive neighborhoods, just regular, where people live. And, I think, depending on how long this lasts, this could be a really devastating scenario for so many families that are already on the margins. And so, how do they make up the gap? Right.

The data is very clear, and Rich and Lisa and others have done really great work on this, like who is the typical payday borrower? You know, usually a single mom, or a family who is struggling to make ends meet, they have a job, but for some reason -- there's either a new expense or lower hours -- and we’re going to see both in the coming months. And then where do they go?

Their only option is a payday lender. Friends and family are not really an option for most people, for a variety of reasons. Banks aren’t lending $500 dollars here and there. Or you're in a debt banking desert anyway, and so you don’t have that kind of access.

So, this is, I think, a huge problem, and the fact that we don’t have robust oversight -- the rules that Rich and the CFOB worked so hard to put together have not gone really into effect.

So, you're left up to states regulating. And as any of us who follow this industry know, the map on usury laws and state regulations is very easy to evade. And with fintech companies -- that’s a whole other thing -- that they're getting a lot of -- oh, we’ll see, I mean, there's more appetite now to let them innovate through lending, and I think it's a huge problem that we will need to watch.

But I don’t think there's a watchdog right now that’s really paying attention, except for those outside of the CFPB.

MS. STEWART: Rich, what do you think? As you mentioned, so the states really here are kind of like the best hope right now for protection for consumers giving what's happening at the Bureau?

MR. CORDRAY: Well, if you're talking about payday lending in particular, it's always been the states that have been the ones who have tried to reign in that industry. And about a third of the states have succeeded at stopping payday lending within their borders.

I mean, I think the research we did at the Bureau into millions of these loans shows everybody wants to say, “Well, everybody should have access to credit, no matter what that credit looks like; no matter how extortionate, no matter how ruinous it is for a segment of consumers.” But the payday lending industry has taken that to new extremes.

The Federal rule that we put in place -- which would have been the first Federal intervention at market -- was actually fairly modest. It would have been a dramatic effect on the industry, but the rule itself is modest.

It simply says, “Before you make a loan, make a reasonable assessment that the borrower has the ability to repay the loan without immediately reborrowing.” Same principle we use in mortgages, in credit cards, and the like.

The industry couldn’t stomach that because their product is so bad, and it is so inefficient that they really want to make loans to people who can't repay the loans immediately and get stuck having to pay fee after fee and reborrowing in a death trap.

So, in my book I talk about this. This is such a controversial issue. There are going to be lawsuits. There were lawsuits over the rule we put in place. There will be lawsuits over any rule they put in place to rescind this rule. It will continue to drag through the courts for a while.

But ultimately, I think people will see, I think people across the country have already voted on this again, and again. They don’t like the notion of loans being made to people at 300, 400, 500 percent rate of interest. They know that’s not going to enhance their finances.

Maybe it helps them out of an immediately jam and some people manage to succeed with that. But for many consumers, that’s ruinous.

If I could go back just for a moment, though, and I know Representative Frank and Senator Dodd are going to speak at lunchtime, but the whole notion that there is a Consumer Bureau in place and that it survived the now less intact FDSDs(phonetic) ruling is such a miracle, really. There were so many people who worked so hard on this, and the consumer groups especially.

But it came out of an idea, if you recall, by a person who was just a law professor at the time, Elizabeth Warren. It was just an idea.

And the notion you could push that idea through the Washington of our day where the big financial companies and the big banks have so much clout and so much influence -- they spend the most on campaign contributions, they spend the most on lobbying -- is remarkable.

And there was one decision, a big decision made -- and I think Representative Frank deserves a lot of credit for this, which was that you Cam -- and you remember this -- he came to you and he realized that small banks and small credit unions needed to be treated differently from the big banks and the big financial lenders, and that is in the Act and it was a big way that the political resistance to this was able to be cut through.

We tried to further implement that at the Bureau. I think we didn't always succeed as we wanted, but we tried to recognize that same dividing line between small institutions that are community based and the large institutions that don't really have roots in any community. And then yesterday we're reminded again.

The reason the Bureau was saved in yesterday's ruling is because they put a provision into this law that said that if any part of it is found unconstitutional, the rest of it should remain. And the Court relied on that yesterday to save the Consumer Bureau, save the day.

So, there was a lot of far-sighted thinking that went into the Dodd-Frank Act, and Representative Frank and Senator Dodd deserve a lot of credit for having that even happen in the first place, including the Consumer Bureau.

MS. DONNER: In addition to saying, "here, here" to that and to the ways in which, despite our disappointment in the issue of presidential removal, there was a way in which the decision yesterday was a ratification of the constitutionality of the CFPB and the fact that it's here to stay, which is incredibly important.

I just didn't want to let escape on the payday point just because it's such an important thing happening now, that those state laws in many cases passed because while fighting payday lending abuses, and car title lending abuses is controversial amongst politicians often, because of the volume of cash from the industry and other such lobbying incentives, it's not controversial with the public, right.

The people on all sides of the political spectrum are strongly in agreement about restricting high-cost, debt-trap lending, and about supporting inability to repay.

But what's actually -- in addition to the current CFPB director trying to undo the rule that was put in place sort of written under Rich's leadership -- there's also a huge threat to those existing state laws right now, from actions by the OCC on the FDIC that will make it easier and easier in various ways, for nonbanks and fintech companies to essentially rent bank charters or acquire them themselves, and get around state interest rate limits and sort of violate --

MR. FINE: Yeah, that's a great concern to us too, Lisa, the ICBA is the OCC's preemptive actions and their expansion of what they call "a bank charter."

I think that the consumer groups need to be on guard about that and watch that very carefully because that could get out of control very rapidly, and actually put entities like payday lenders on steroids.

And so, you have to be really careful about what the OCC is doing under the guise of preemption and having the ability to create a new national charter with no congressional permission.

MS. DONNER: Yep, we absolutely agree with you there. The OCC and the FDIC (inaudible).

MR. FINE: Yeah, we're worried about that too.

MS. STEWART: So, to shift a little bit to what we have here, I'm curious, the CFPB has been this huge political fight, always. Do we ever hit a moment where it's protecting regular people from, like -- the credit card industry is not a huge political (laughter) flashpoint?

(Inaudible), Cam, but do we ever hit a moment where this is not some big controversy that maybe shouldn't be?

MR. FINE: Absolutely, I think we do, and I think yesterday's decision helped that. So, now it's at least settled law with this Supreme Court, and I think that will last for generations, that the CFPB is a legally established entity. That helps.

If you look at the history of our regulatory authorities -- starting with even the OCC in 1863, the Federal Reserve in 1913, the FDIC in 1933 -- in the first couple of decades of each of those agencies' existences, they were extremely controversial, extremely political. All kinds of political forces went after them, tried to end them, tried to modify them a great deal, and they survived all of that.

And here they are settled agencies, and nobody challenges that the Federal Reserve should exist, or the FDIC, or even the OCC, for that matter. They are settled agencies.

Always remember, Rich was the first Director of the agency, and now you have someone that's only been there two years or so, two and a half years. We're not -- this agency isn't even 10 years old yet.

So sure, there's political turbulence, there are people who are upset, all the sides have an opinion. But that's going to settle out and 25 years from now the CFPB will just be the CFPB, and it will have always been there in peoples' minds, and it'll be doing its thing.

So, yes, I think that it will, over time, cease to be such an ideological lightning rod, and so politically divisive.

MS. BARADARAN: I want to follow-up on that. I think that that's right, and one of the differences between sort of the post-New Deal era and now, and one of the things that I worry about is just the structure and the power of some of these largest banks and the payday lenders.

And, you know, I think one thing that differentiates us is, it's one thing to regulate a district group of community banks -- maybe they all don't like a law and then they kind of coordinate and fight it -- that's one thing. But when you have 5 or 6 massive banks, or even in the payday lending sector, that is increasingly a conglomerate. You look at the private equity, the entrenchment of some of these firms, and the amount of funds that they control, that, I think, is a fundamentally different thing.

So, as it relates to the CFPB, I think, one of the things that the New Deal did that Dodd-Frank did not do is breakdown the power structures, and to create different sorts of incentives for the firms at play.

So, I think, right now the game is "winner takes all". So, your incentive as a bank, or anyone in the financial sector, is to get as big as possible before you get eaten by someone bigger, right, being very simplistic. And that's an incentive that's going to exits just because of the way that markets work.

And so, one of the things that the New Deal did is say, okay, we're just going to chop them all up and then you can compete within the region, but we're going to have these big, broad dumb rules, very blunt rules to kind of cap out, and some of those rules obviously became outdated and we needed to reform. But what we have right now is just like massive firms, those big, dumb rules are gone, and we have very finely tuned sort of complex rules.

So, you look at derivatives, you look at any sector, you know, consumer protection, and these rules are very finely tuned and Cam is right in that they bear on small community banks the most because they don't have a floor of compliance officers --

Mr. FINE: Right --

MS. BARADARAN: To kind of dig through all of these rules, where you know, JP Morgan and these -- they staff massive compliance departments, and so that's one of the problems here.

And at the same time, you're still accumulating power because the more regulations you have, the more you can feed your compliance department, and the more community banks are going to get destroyed -- I don't think it's because of the regulations, but just because of the power of these other firms.

So, I think that's something that, yes, strengthen the CFPB, but structurally, you know, don't waste the crisis -- and in many ways we did waste -- and maybe this is controversial -- but we did waste the last crisis in not allowing the "too big to fail" banks to nfot be "too big to fail." And we are at a point now --

MR. FINE: ICBA tried (laughter).

MS. STEWART: Yes.

MR. FINE: We did our best to try to break up, but we got outvoted every time (laughter).

MS. DONNER: One thought that sort of connects that back a little to the question about the CFPB and controversy. I certainly agree that -- whatever -- deposit insurance was radical and going to, you know, destroy the world, as were the 33 and 34 Securities Acts in their time, and so, yes, the CFPB will become, in fact, on the ground.

But I don't think our goal should be lack of controversy, either for the CFPB, or for our thinking about financial reform and regulation, right. Hopefully, our goal should be actually making the system work better for people.

And if we're continuing to think ambitiously and appropriately about the level of change that's needed to accomplish that goal, then maybe they'll continue to be controversy about the next thing because there are going to be powerful interests pushing back on it, and that's what happens if you try to change things.

I mean, I think -- there's both a bunch of -- building on the work that the Bureau did under Rich's leadership -- there's a whole bunch of additional ambitious steps that the Bureau could be thinking about, and approaches it could be thinking about.

Like, how do we -- payday is just one example of ways in which the structures of the financial system kind of magnify and amplify, reinforce inequality, and drive a growing wealth gap, and drive the racial wealth gap.

There's a whole bunch of rules and ways things work that end up punishing -- the less money you have, the more you pay -- and thinking about that framework, and how do we change that. And some of those changes are changes that the Bureau can make, and some of those changes are changes that need to be made by entities other than the Bureau.

How do we have more public provision and some basic thinking services, though the post office, through FED accounts, both, so that there's an alternative to the private sector and to make sure that what are sort of essential utilities that are provided, are available to people so that they can grow wealth rather than having wealth extracted as they try to navigate their financial lives.

MS. STEWART: Yeah. This is kind of the last section, we have about five minutes left. I do want to talk about, you know, Mehrsa, said are we wasting a crisis right now and how do we not? How do we not waste this crisis?

Congress has taken some steps but it's not clear that there will even be a fourth stimulus bill. What are some big policy ideas that you think could come out of this in terms of protecting consumers? And I'll ask you, I think, Rich, first. What are some big, sweeping policy ideas that we could look at right now?

MR. CORDRAY: So, to put this in the context of the discussion we've been having, I think we've actually reached a new plateau as of today. I think this is an important moment.

For 10 years there's been continued fighting, as there was before the Dodd-Frank Act was passed, about whether this Bureau should exist at all and whether it should be torn down. There was fighting in Congress for the last 10 years, it's largely been settled now. There was fighting in the courts that was settled yesterday.

I think we are at a point where everybody understands the Consumer Bureau is here; it has a role to play and it's an important role to play.

Now, we can go on and continue the fight about what to do about various issues, what to do about payday lending, what to do about further changes to the mortgage market, and to the credit card market, and we can have those discussions.

I agree with Lisa, we should not shy away from controversy. If the Bureau were to do nothing, in some ways it would not be controversial. Actually, I would hope that it would become controversial if it were doing nothing, and I'm making that case right now.

But as we go forward, the director, Kathy Kraninger said yesterday, that the Supreme Court case does clear out obstacles and now they can move forward. Well, let's see them move forward then.

They're getting record number of consumer complaints during this pandemic and the economic crisis that we're having. It's time to see the enforcement actions that flow from that. It's time to see the strong supervision that's needed to deliver the relief that consumers are entitled to and that the CARES Act, for example, has provided. So, let's see them act.

But now we can argue about how far to go on X, how far to go on Y. We don't need to argue any longer about whether the Consumer Bureau should exist at all. We've wasted a lot of time and effort on that and now, I think, that's done.

MS. STEWART: Lisa, I guess I'll ask you the same question I asked before. What are some big policy ideas that we should be looking at whether from the Bureau or somewhere else?

MS. DONNER: Yes, well I think in terms of what the Bureau should do, in addition to the frame I just talked about, in terms of where are the places that the way that the financial services consumer marketplace drives inequality, and where discrimination is particularly rampant, another frame, I think is very important for thinking about priorities -- and there are some low-hanging fruit there.

If you think about the auto lending market, for example, and the fact that we have a structure of compensation there which essentially incentivizes making more economically vulnerable people pay more, and has a history of resulting in much higher payments for Black and Brown borrowers, like thousands of dollars over the life of a loan, the National Fair Housing Alliance found in testing that they did.

And then one other thing I'd say on that, the CIPD found something that Rich did, and Congress overturned, is to return the arbitration rule.

If we leave a side (phonetic), the CFPB, do you think about public options in financial services and banking is incredibly important? And I think that thinking, as Mehrsa suggested, about how we find kind of structural mechanisms to take on the power of the financial industry, and to change the rules that treat extraction, or maximizing short-term profit by the financial services industry as the proper goal of every piece of economic activity (laughter) in the economy, which is sort of what we do, and to enormous destructive effect.

That is a fundamental shaper of the increasingly, untenably, unequal economy that we're living in.

And so, thinking about, for example, the way that private equity, and the way that the laws that enable kind of alluding approach to finance, it's not an accident that that's permitted. There's a series of permissions and loopholes and rules and exceptions that make it possible. And those rules could be changed, and we would have, really, profoundly different economic outcomes.

If you think about, you know, speaking of a particular example, a kind of concentrated corporate power that is particular important in the financial sector. What about the increasing confluence of finance and technology and the power of (audio drop) companies?

What we've seen is a lot of regulators and Congress too often acting like if it says -- if we say fintech, God's ferried us to -- and new rules are allowed because it's special, sparkly (laughter).

MS. BARADARAN: If you say, "financial inclusion", that's the magic word.

MS. DONNER: Right.

MS. BARADARAN: If you say, "financial inclusion", and "block chain" in a sentence, you get (laughter) like a crown or something.

MS. DONNER: Right, right (laughter) go-go (phonetic) roles. Yeah, because you said those. instead, as Rich was saying, we need actually a whole new regime of rules to really actually protect peoples' privacy and to think differently about data, and about the combination of banking in commerce, which is a problem in that space - as it is, in our view, in a bunch of other places.

And Senator Brown has a discussion draft proposal out there thinking about these privacy protections in a different way, creating a new agency, Representative Garcia.

And I was also was just thinking about pieces of this, there's an enormous amount to do.

MR. FINE: Yeah --

MS. BARADARAN: Let me add to this -- Oh, go ahead Cam.

MR. FINE: No, go ahead, Mehrsa.

MS. BARADARAN: Just from the public option aspect, I mean, one of the things -- I studied payday lending closely and one of the things you can do, you can regulate the payday lending sector, but as we've discovered, it's difficult. That is a very difficult thing to do at the state level. We saw what happened with the Federal.

I mean -- it's hard -- we should still do it, absolutely, to tamp down on predation, but there's also offering options, right.

You know, if you need $500, you know, there's a difference between giving $500 at a 3,000 percent interest rate, versus $500 at a lower interest rate. That is a sustainable thing.

Now, I think the general problem is people don't make enough to live on. I mean, fix that problem. But in the course of life, you do have emergencies or other shortfalls and you do need that loan.

And so, I have been a big proponent of instead of allowing the market, which is going to be the highest interest lenders to meet it, putting forth a public option. And going back to the early New Deal pivot that we were talking about, that was an option that was considered.

You know, FDR, he chose FDIC insurance, but we had a postal banking center and one that I've been advocating in that, that was one way for lower income folks -- I know Cam is an opponent, which is fine -- but one way for low-income folks in places that are banking deserts right now.

I mean, there's three hour lines at ATMs to pick up your check right now in New York

City. There are places in the country that are banking deserts and people are waiting weeks and weeks for their stimulus check. So that's a problem. I'll leave it to Cam to continue --

MR. FINE: So, yes, we disagree on the postal banking piece. That could be an entire panel that would last 3 or 4 hours.

MS. BARADARAN: Mm-hmm.

MR. FINE: But to Emily's question to us all, I actually, in broad terms, agree with Lisa, and much of what's been said by Rich and Mehrsa. And let me just say that I think our whole scheme of regulation of financial products and services needs to be overhauled.

There has been so much change over the last 10 to 15 years in technology alone -- how services are delivered, how consumers access service, what the delivery channels are, who controls those channels, the consolidation of our financial resources in fewer and fewer hands.

I mean, our financial services sector at the top, at the Wall Street top, is starting to look like that TV series "Billions" with AXE capital, and all of that kind of stuff. The game is rigged to the insiders, and most of the time that excludes the smaller community financial institutions, the credit unions and the small players.

So, the whole system needs to be looked at, and I have a lot of ideas about how that could happen. But all the stakeholders need to come together and take a look at how we regulate the realm of financial services because there's no question that minorities, small players, any host of stakeholders are largely disenfranchised from huge opportunities within the financial services system.

MS. STEWART: Well, we do have to wrap, but this has been great. I could really talk to you guys about this for a long time. But thank you so much and have a good rest of the day.

MS. STEWART: Thank you all.

MR. FINE: Thanks.

MR. CORDRAY: Thank you.

MS. STEWART: And a quick note to our audience, we'll be taking a five minute break and we'll be back for the Keynote Lunch at 12:58.

MS. BARADARAN: Bye.

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MR. HUTCHINS: On behalf of the Brookings Institution and University of Michigan's Center on Finance Law and Policy, I'm Glenn Hutchins and I'd like to welcome everybody for joining us today.

I want to especially recognize Michael Bard, the dean of the Ford School of Michigan, and his team for partnering with us on this terrific, day-long event.

Michael, as most you know, was instrumental while working at Treasury, in the design of the Dodd-Frank Bill. Thank you, Michael, and thank your team for us.

We've heard a lot today about what Chris Dodd and Barney Frank intended when they crafted to use its full name, the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Now we get to hear from Dodd and Frank themselves on how the laws have been implemented over the past decade by the Obama and Trump Administrations, the Federal Reserve, and other regulators.

Neither Barney nor Chris really require an introduction. Suffice to say that both had distinguished careers in public service, serving in their respective Chambers for 30 years each, and culminating in Chris chairing Senate Banking and Barney chairing the House Financial Services Committee at that key moment 10 years ago.

Chris and Barney will be interviewed by David Wessel who is director of the Hutchins Center on Fiscal and Monetary Policy at Brookings. David has promised to get Chris to tell us who Joe Biden plans to pick as his vice presidential candidate (laughter).

MR. WESSEL: I don't recall that part of our conversation, Glenn (laughter). As Glenn said, I'm David Wessel. I'm the director of the Hutchings Center and it's an honor to have Senator Dodd and Congressman Frank join us today to talk about, basically, why they did what they did and how it's worked out.

So, Congressman Frank, let me start with you. If we look at everything that's happened since the law was signed by the Treasury departments in each of the Administrations, by the Federal Reserve, by the various financial regulators, how would you grade their performance in implementing

Dodd-Frank?

CONGRESSMAN FRANK: Well, we have two semesters. In the first semester, the Obama Administration, did a very good job.

I had one disagreement because I think they never fully addressed the housing issue and didn't use the tools we gave them to do that.

On the other hand, with regard to the regulation, they did an excellent job, I think, of giving coherence to what was a somewhat chaotic product in the sense that it was a lot of things done fairly quickly.

Look, it's clear that if we had held the Congress in the next term, there were some fixes -- you always have some fixes. But I think the bill itself has held up very well. And they did a very good job.

Under the Trump Administration, it has held up also surprisingly well until now. There were some serious efforts -- the first thing to know is that for all of the denunciations of the bill, and the wholly inaccurate predictions that it was going to interfere with the economy, President Trump was in the interesting position of denouncing us for having wrecked an economy, which he said was the best economy ever.

In fact, the economy -- the banking system, the financial system -- functioned very well.

What's striking is that for all of the denunciation, look at the contrast between our bill and the healthcare bill. Every other week, it seems, the republicans were voting to repeal healthcare. They never voted to try to appeal the whole financial reform because it was too popular.

And so, they badmouthed it but didn't do that much to retard it as much as they would have liked to. I think they felt politically constrained. Until now, there does appear to be some problematic initiatives on the table.

MR. WESSEL: Senator Dodd, how do you grade them?

SENATOR DODD: First off, taking note for the audience watching, that photograph behind Barney, what was it Barney, about 4 o'clock, 4:30 in the morning (laughter).

CONGRESSMAN FRANK: (Laughter) My husband took that picture. It's the actual signing. In front of each of us is a copy of the bill; you can actually see the signatures. It's the moment when we signed the conference bill as the conference had completed at 6 o'clock in the morning.

To give credit the headless horsewoman behind Chris is the great Jeanne Roslanowick, who was staff director for the House.

SENATOR DODD: Yeah, that was quite a moment. We were up all night in the conference until it had survived. So, Barney, thanks for putting that picture up. I love looking at it.

Barney answered this pretty well. I think, again, the Obama Administration, I think, obviously it felt they were certainly deeply involved in the creation of the final package of the law, so, they had a lot of interest.

But again, I've enjoyed the best evidence that we can offer. It's not what Barney and I say:

I looked at the testimony of the 7 or 8 of the largest financial institutions in the country had testified before the House Financial Services Committee a year ago -- not in the midst of this pandemic, but a year ago in April of 2019 -- they said, you know, look, we're healthier, we're more secure, we're more profitable. And very courageously, I think -- given their views going back 10 years ago -- give credit to the fact that this legislation placed the institutions in much better shape than they would have been without the law.

And, of course, the best evidence is what happens the year later, what we're going through now. And I don't know of anyone that thinks that had we not done anything or left the structures in place, in the fall of 2008, of the collapsing occurring, that this crisis we are going through now would have been far worse.

Banks are lending, they are providing resources to small businesses and others. And, because of the capital, because of the liquidity, because of the stress testing, because of the FSOC -- you go down that long list of provisions of the bill -- I think we are in far better shape.

And even the stress testing. You're never going to imagine what we're going through today. And yet, here with this stress test which is beyond the imagination of people even a few months ago, the financial institutions are playing a very critical, very important role in the midst of the economic and the pandemic crisis.

So, again, I don't like to see and bring up things like -- you know, they still didn't get the rules done on this incentive compensation for risk-taking -- which is a mistake in my view. It was one of the major problems -- rewarding short-term gain rather than making long-term investments.

You know, yesterday's decision by the courts, some of the things I'm not happy about it, because I think we tried to do something differently than The Independent, that organization, but what Barney said is absolutely true. There was never any effort to appeal the bill.

Basically, even the Crapo legislation -- which I thought went too far in lowering the threshold for heightened supervision was unnecessary -- there are only 110 banks that have combined assets of more than $10 billion out of 5 or 6 thousand; 5,000+ banks in the country. But frankly, that was at the republicans' insistence, not ours. I would have had $100 billion, frankly, as a threshold, but they kept on pushing us saying, "Oh, that's not good enough," because we still think they're too big to fail." So, we lowered it.

But thank God the Fed has Jay Powell. In my views, we are very lucky in the country to have him as the chairman of the Federal Reserve Bank, and the Fed has the power to put restrictions on institutions in excess of $100 billion.

So overall, I think we're in good shape. We got more to do. I think I heard Jenny yell and say, "We need, probably, a new Dodd-Frank." And I think they probably do because technology today and new concepts and ideas are emerging.

But I think the fundamental structure that Bonny and I, and our staffs and colleagues put together is holding up well, working well. And frankly, once again, we're being followed by other nations of the world.

I think Barney and I both felt we didn't want to see the United States lose its historic role as being the most progressive country when it came to financial reform legislation. And I think the fact that we passed this bill has stood the country in good stead and other nations were sort of copying a lot of the stuff that we did. Not everything, but a lot of what we did in that bill.

CONGRESSMAN FRANK: I would understand. I'd go forward to a new Dodd-Frank, but they're going to need a new Dodd and a new Frank (laughter).

SENATOR DODD: Yeah.

MR. WESSEL: Mr. Frank, you know, a decade ago the Federal Reserve was fairly unpopular; people accused them of bailing out Wall Street and letting Main Street suffer.

Jim Siegle, who's on your staff, said this morning that some of the issues, as the bill moved through Congress, involved how much power to give to The Fed, and how to clip their wings a little bit.

Yet, in the current episode, we seem to have the opposite situation where the Congress said, “Well, we’re going to have to spend all this money. Please let's have The Fed spend it and let's not the Treasure do it by itself.” So, how do you make sense of that? What changed?

CONGRESSMAN FRANK: Well, I think that’s a very good point because it refutes one of the, kind, of sub-rosa criticisms we've been getting. Hank Paulson, Ben Bernanke, and Tim Geithner -- who were generally supportive and we worked with them, they basically -- including the two republican appointees -- and Hank supported the basics of our bill, but there had been complaints ever since that we unduly restricted the Federal Reserve in two ways.

One, by requiring a Treasury agreement for their extraordinary activities. And two, not letting them bailout a single institution like AIG.

And their predictions were -- every (inaudible) there's a book -- that was published, by the way, under the auspices of Brookings -- called, First Responders -- I have it here, edited by those three, they predicted that we had caused problems that were going to come up for the next crisis.

And of course, as it was published, we’re in the midst of the next crisis, and I've been asking and have gotten no example of anything that we did in the bill that has restricted The Fed from doing anything it wanted to do.

The answer is that I think we appropriately restricted -- by the way, one of the things that they have complained about in this book is, we require that any institution that gets this kind of aid from The Fed in these kinds of circumstances, must be listed, but two years later. So, there's no immediately negative impact. And they said, “Oh, that’s a problem.”

In fact, one of the things illustrates why we felt we had to intervene with regard to this situation -- I've heard this from them, it was Hank Paulson's mantra when we did the TARP, and it's in this book again -- we have to avoid the stigma of accepting aid.

It really is -- I was struck at how sensitive the regulators -- even the ones who wanted to do good regulation and help us avoid a further crisis -- how sensitive they are to the apparently hyper-sensitive feelings of the banks. And they said, it's very important we avoid stigma of accepting help.

And apparently their argument is that bankers are so unpatriotic, I think they're being unfair to them, that if there's any kind of animus that would attach to their taking aid, they'd rather go broke than take our help.

And I think the answer is, "Nah. They're bluffing," and you go ahead. And so, that's a big part of it.

Remember, the only thing I would differ with you on, Dave, you said that The Fed was fairly unpopular. No, it was wildly unpopular (laughter).

In early 2009, it came out that AIG originally asked The Fed for $85 billion. A week later they said, "Oh, sorry, we need $170 billion." They didn't have enough money to cover themselves and they didn't even know how much they needed.

And it turned out the people responsible for that had been given bonuses. And Chris, actually, courageously stepped up and put into the law that they couldn't do that again. But people demanded -- without constitutional authority, unfortunately -- that we retroactively repeal them.

And the anger at The Fed when that came out was like the old movies when the peasants are out in front of the castle with the pitchforks and the torches to get the monster.

MR. WESSEL: Now, I learned a long time ago that arguing with Barny frank is a foolish game, but it is true that in the CARES Act the Congress basically undid a lot of things temporarily, that had tied The Fed's hands.

They allowed the -- for instance, they reinstated for the time of the crisis the Federal Deposit Insurance Corporations ability to guarantee bank debt without going to Congress. And they've waived some of the restrictions that Dodd-Frank put on using the Exchange Stabilization Fund --

CONGRESSMAN FRANK: The Fed, (inaudible) talking about The Fed.

MR. WESSEL: Yeah, but the 13(3) authorities that The Fed is using now -- I think the concern was -- and I'm not sure where you are on this -- is that Congress wouldn't move fast enough in a crisis. And so, The Fed had to have a lot of freedom. And then this time, the Congress moved pretty fast. But my question to you is, why do you think the Congress gave The Fed so much responsibility for this? It's not like the TARP, which was a Treasury thing. All these --

CONGRESSMAN FRANK: First of all, you started a sentence that I'm going to finish. The 13(3) authority that The Fed is now using successfully and creatively is the 13(3) rewritten authority in our bill.

So, in fact, the complaint that we unduly restricted 13(3) is obviously wrong, because it is 13(3), as you noted, that they are using.

The other part of it is that we -- look, we had just acted in the Congress very, very rapidly and we did things in 2008 that were much more unpopular than the CARES Act. I mean, let's have the difference:

In 2008 we were allocating public money although it ultimately came back, to unpopular institutions. The CARES Act gave a lot of money to everybody. It was a much easier sell.

The TARP clearly will go down in history as the single most unpopular and successful thing that Congress ever did, and yet we knew that in another crisis you could (inaudible) fine.

But again, I was talking specifically about the complaints about 13(3), and in fact, 13(3) is working very well now under our new rules

MR. WESSEL: So, Senator Dodd, there was a lot of talk earlier about the FSOC, the Financial Stability Oversight Council, which I think is fair to say didn't get overwhelming applause from some of the previous panelists. And I wonder whether you think that's because of the way it was structured?

It's a creature of the Treasury rather than having an independent leader, as you had proposed at one point. Or, whether it's just the nature of the personnel that are overseeing it now in the Trump administration, and how you would think about doing the FSOC differently, if you would?

SENATOR DODD: I think it's that and I also say, history, has a lot to do with it as well. I mean, the problem is quite clear.

In fact, I've said a number of times, you wonder why it wasn't just happening without legislation. I mean, this is not brain surgery.

You've got these stovepipes, these siloed operations, and the idea -- the radical idea -- that you ought to sit out four times a year and talk to each other and look over the horizon to see if there are products or institutions that are posing systemic risk -- you know, all of us could say, "What the hell did they have that there aren't a law for to do that," doesn't common sense sort of dictate this, sort of a layer to protect yourselves against the kind of problems that could emerge.

So, in a sense, there was hostility to it. I mean, the Treasury can't (inaudible) -- and I'm singling out any particular Administration -- the idea that they'd have to sit down with some of these other regulators as co-equals -- as they saw it, I guess -- was just an aphamortool (phonetic). I mean, why should they have to do that, in a sense?

So, the very notion of -- and I think it goes back to sort of how these various bodies viewed themselves, and how Treasury saw itself -- and so you're competing against history to begin with, I think. And the notion, somehow, that we don't have to do that here.

I would point out, by the way -- I think in the last year or so -- I think there were some 32 different meetings of the FSOC. So, they actually discovered the value of being cooperative and working with one another and sharing information.

And so, again, I think it grew a little bit more than it probably had to, necessarily. But again, the idea that you're going to identify systemic risk -- you know, there was such hostility to that idea to that idea.

And we wrote it in a way, by the way, that you don't need much change because Barney and I were looking at financial institutions that were posing systemic risk, but the language is broad enough.

Now, we look at it and we have something called a virus, by the way, that can create 44 million people without jobs in the country and put your economy in deep trouble.

MR. WESSEL: But do you think, though, do you think the FSOC has done a good job, as good a job as you'd hoped?

SENATOR DODD: Not initially. But again, because of the hostility to it, they overstepped -- I think Barney and I agree on this -- with an insurance company that probably didn't need to be. But there was GE Capital -- certainly, needed to be, as posing systemic risk, in my view.

And you can look at other institutions that frankly -- but this idea, God forbid, were considered systemically risky. And yet, without that observance, we run the risk obviously of having what happened to us in '08.

MR. WESSEL: So, you wouldn't give the FSOC more power than it has?

MR. WESSEL: Well, I think I'd like to see them, you know, give them what we gave them, and not take it away. They have been taking power away from it.

What we originally drafted, I think, was working pretty well. I think the idea that they've eroded that is what's caused the problem.

I think the witnesses that you heard from this morning -- an awful lot of them -- thought, in fact, that they've tried to cut into the power of the FSOC, rather than enhancing it, or, building on it has been the major problem. Not that it has too much power.

I don't think it had too much power. I think they used a couple of examples, which candidly, probably were overreaching a bit, and they use that as a way to suggest this was somehow an institution that was doing more harm than good, which I totally disagree with.

MR. WESSEL: And Mr. Frank, what about Fannie and Freddie? You spent a lot of time thinking about them when you were in Congress.

I certainly didn't expect them to still be in conservatorship 10 years later (laughter), and I'm not sure what we should be doing. If we should end that, or nationalize them, or privatize them? So, where are you on that?

CONGRESSMAN FRANK: Well first let me say, to just add on the FSOC, as you mentioned -- GE -- that's an example of the good effect of the FSOC before they changed it because it was wanting to get out from under the FSOC that led GE to make the long overdue decision to separate out the disastrous entry into finance.

MR. WESSEL: Right.

CONGRESSMAN FRANK: And that's an example of how the FSOC -- the fear of the FSOC had some good effects.

Let me start on Fannie and Freddie by saying our republican panelist earlier actually kind of refuted an old republican argument. One of the republicans argued and said we got during the passage of our bill, was that we were mistakenly ignoring Fannie and Freddie.

Our position at the time was that we had, in fact, before we did Dodd-Frank, passed what's called HERA, that he refereed to, which stopped the bleeding with Fannie and Freddie that we regulated it, and brokering with Paulson, set the stage for the conservatorship.

In other words, the emergency need to deal with Fannie and Freddie we had dealt with. He just said that. He just said, "Oh, HERA was much more important." So, that was a vindication of our argument.

The second thing I would note is this republican argument, and he referred to it again, "Well, we never did anything about Fannie and Freddie." In fact, in the two years that we had a democratic House and Senate, we did pass that bill, HERA, that stopped the bleeding.

The republicans, either before or since, have never done anything. They talked about the importance of doing anything about Fannie and Freddie. From 2011 through 2017, they controlled both houses of Congress, did nothing about Fannie and Freddie.

Then for two years, they had the President, the House, and the Senate. They not only did nothing about Fannie and Freddie, but I was struck again by his argument that we made a mistake, we missed an opportunity, to restructure the financial regulatory architecture.

Well, if that was so important, why did the republicans do nothing about it since then? And I would like to ask him. He was in the Trump -- and maybe still is -- in the Trump Administration, why didn't they do anything about it?

The answer is that the major obstructions to structural reform are not technical, they're political.

Yes, the SCC and the SFTC should be merged. Try and to that. Try and tell the people in Iowa and Minnesota and elsewhere in the Midwest and the South, that the SCC is going to be in charge of their debt and derivatives.

And when we talked about -- Chris and I -- there was a move to consolidate bank regulation. Well, we did get rid of the OTS, and consolidated there. In fact, they had been resistant for abolishing the OTS. My fallback was to rename it the Office of Figleaf Dispensation (laughter). But we already (inaudible laughter).

But when we proposed that bank regulation between the OCC and The Fed be consolidated, and that it all go into the OCC and be taken away from The Fed, Cam Fine, who was just on, the Independent Bank had said, “No way.”

He goes -- the way it works now, state chartered banks are regulated by The Fed, and Federally chartered by the OCC -- and they said, “We do not want,” the state bank said, the independent bank, “Don’t throw us in there with the big guys.”

Now after Fannie and Freddie, my view is that what had been proposed before -- and it was adopted basically by the Obama Administration, and the Senate republicans and democrats, and the House democrats were agreeable -- was to have an agency which would guarantee mortgages against interest rate risk, but not credit risk.

That if you want to have 30 year mortgages -- which is an American almost special event -- but if you want to have 30 year mortgages, you’ve got to insure people against interest rate risk, or else have initial interest rates that are statostrophic.

MR. WESSEL: Right.

CONGRESSMAN FRANK: And the republicans in the House, the financial group, were always dominated by absolute free market group, that, for example, angrily protested when we restricted subprime mortgages -- by the way, another part of what we did in Dodd-Frank that’s worked very well, that got ignored in the earlier discussion. But the problem that you have is, people aren’t going to do 30 year mortgages unless you have an interest rate guarantee, and the republicans in the House blocked that. I still think that’s the best way to go. That you set up a mechanism whereby people can pay a fee that makes it self-financing, so they can be insured against credit rate risk on 30 year mortgages --

MR. WESSEL: You mean interest rate --

CONGRESSMAN FRANK: Interest rate risk, but not against credit rate risk.

MR. WESSEL: Right, interesting. Senator Dodd, CFPB, do you think we would have been better off if there was a five member panel, the way the SCC and the Federal Trade Commission work?

SENATOR DODD: I don't. I mean, we talked about it. We discussed it a lot. And, in fact, we debated and every time we turned around with our republican colleagues to do it, they wanted, basically, prudential regulators to be the regulators of the CFPB.

And candidly, Barney and I have been watching over the years, you know. And you can look at, here we are in the middle of a national election, (audio drop) they get the swing vote on the Federal Elections Committee.

I mean, you can place (audio drop) switch teams with these commissions where you just deprive the necessary mutton numbers, so you don't act. Or you starve -- you know, another issue, which we'll relate to the subject matter you raised.

So, I think, you know, you have the EPA, you have the OCC, a single director, they work pretty well. You can argue about the politics of any one at the time. But the idea of having these commissions, I think, frankly, it may have value in certain circumstances, but this was a better result, I think, for us.

I'm disappointed, obviously, over the decision by the Court. But, frankly, the decision is a lot better than it could have been. You're not questioning the actions that have already been taken along the way.

And going from cause to will, I would like to have protected that person to take that independence of the CFPB; but frankly, on a 5 to 4 decision, they didn't do as much damage as they might have along the way. (audio drop) Frankly made the right decision.

CONGRESSMAN FRANK: Yeah, I just want to say, it is clear -- again, listening to our republican staffer before, there's no question, the only thing that the republicans didn't like about the CFPB was that it existed (laughter).

All these principles they put forward, that it has to be subject to annual appropriation, that you can't have a single head -- they apply them nowhere else.

When they moved to put the CFPB subject to appropriation, on the grounds that it's now just being funded through The Fed, I offered an amendment -- we were then in the minority -- to apply that same principle to The Fed.

It gave Ben Bernanke agita (laughter). But I assured him when he called that they weren't going to vote for Chris, they were hypocrites. They didn't object to the principle of there not being appropriation. They didn't want any money to go to the CFPB.

And as Chris alluded to, when the bill passed the House, it had a five member commission. I didn't want that. But there was strong support from Henry Waxman from the Commerce Committee, they were almost trying to protect the FTC from being outshone, and the FTC was a commission.

So, I didn't have the votes in the House because of that defection of a few democrats to get a single agency head. So, our bill had a commission of five.

The Senate bill had a single member, and I think Chris will acknowledge that the fight I put up for the House version was not as impressive as some he has seen (inaudible laughter), and it's a single commission.

And here's the problem, in the first place, they're hypocrites; they don't mind a single commissioner, the control of the currency. In fact, he boasted about how well other regulators are held over.

But here is the new problem with the commission -- and as much as I love the Senator, and as proud as I am of the fact that we had a complicated, politically troubling issue to deal with -- and there was no House/Senate problem, no turf problem -- as Chris said, the first real conference in years, and unfortunately, maybe the last conference in a while, in that sense -- the House and Senate got along very well -- but the problem is this, over the years, the nature of the appointments to these commissions -- the FTC, FCC, SCC, -- they've changed.

The president still gets to appoint the chair, but the senators on the committees of jurisdiction get to appoint, in effect, the other four members.

So first of all, you get, I think, a tendency for regulatory capture to almost start out that way, but even more, as Chris said, you have this problem of vacancies.

I think somebody ought to just do a study of what percentage of the time in the last 10 years, these five member commissions have had not only five members, but enough for a quorum. And the answer is, not much.

So, the insistence on a five member commission was one more way to weaken consumer protection, and it's a principle they applied nowhere else: not the EPA, not to OSHA, not to the control of the currency.

MR. WESSEL: Let me come back here to the point that Barney made, because earlier one of the panels were going back and forth on this. Let there be no illusion.

I (audio drop) speaking to the Financial Services Roundtable, the 13 -- 12, or 13 largest institutions in the country at the time. They had two issues they cared about. One, their opposition to the Consumer Financial Protection Bureau, and executive compensation.

And it was really rather stunning, in a way, for (audio drop) to talk to the chairman of the banking committee, in a sense. And there was such hostility to that idea.

I was told at one point we could have (audio drop) boast in favor of a financial reform bill if we eliminated the Consumer Financial Protection Bureau.

MR. WESSEL: Congressman Frank, you mentioned mortgages, I wanted to go back to that for a minute

As I recall, you pointed out at the time that it's a pretty bad system if somebody makes a mortgage and then can just sell it and doesn’t have to retain any of the risk. It leads you to do dumb things.

And you had hoped that the provisions in Dodd-Frank, Congressman Frank, would force people to retain some of the risk. And as it evolved, the rules actually -- I don't know if they gutted it or they diluted it, and stuff. I just wondered if you could talk about that.

Congressman? You're on mute. Congressman, we can't hear you.

CONGRESSMAN FRANK: I'm muted, but my whole thing was dead.

MR. WESSEL: I know, I know. You're good.

CONGRESSMAN FRANK: I'm going to show you -- I'm happy that I'm getting old and I'm still around, but I am afraid I am outliving two important things --

SENATOR DODD: It's about risk and the game on mortgages, your efforts to make sure the consumers had to have some risk --

MR. WESSEL: The lenders, the lenders.

CONGRESSMAN FRANK: Thank you, yes. That's another important part of the bill that got dismissed before when we were talking about it. That's one area where I have been critical of the Obama Administration. I talked about it, I alluded to housing.

The FSOC adopted the rule on that, effectively did away with the requirement that there be risk retention and securitization of mortgages.

There are other substantive things in there that have banned the issuance of some mortgages that shouldn't be issued. And one of the great successes of the bill is, in fact, that we got rid of that problem which was one of the root causes of the crisis, and it wasn't going to happen anyway.

As a matter of fact, by the way, when we first, in the House, passed the bill to restrict subprime mortgages substantively, which became the bill later on that we were able to introduce, that we were to pass into law, the Wall Street journal attacked me for having created a sarbangs (phonetic) obsolete for housing, and said that we were interfering with the market.

And incredibly, noted that 80% of those mortgages were paying off on time, which was such a sign of how good they were. And that's a great success.

We also said that for the mortgages that were able to be made -- those that were not outlawed -- you should have a risk retention. And we had to accommodate a group to get our 60 votes. We had to accommodate a group that wanted an out, a loophole, for ultra-safe mortgages so they wouldn't be subject to risk retention requirements.

And in the enforcement of that, franked (phonetic) the unusual coalition of liberal advocacy groups and banks, got together and persuaded the FSOC that the strength of the housing market required that the loophole eat up the principle.

And there was, in effect, no risk retention requirement for home mortgages. There is risk retention elsewhere that's been helpful.

But if I were to be able to go back and make one big change, and if there is a new Dodd-Frank, I would hope our successors would tighten the risk retention rule.

I think that that, in fact, again, a major cause of the problem was the securitization and the ability to get rid of any of the risk when you're securitized. I would toughen that and put some percentage back for home mortgages.

MR. WESSEL: Senator Dodd, what would you --

SENATOR DODD: I agree with that, by the way, David, and you know it's so true. I happen to like securitization. I think it made sense.

But when you are selling mortgages -- I think it was 8 to 10 weeks is how long a bank was holding your mortgage before it was being bundled and securitized, and no due diligence, despite the fact we really worked on the due diligence -- to have a sort of look to what these bundles looked like, and the false assumption that we worked off of -- which is one of the root causes of the problem -- is no matter what you did, people would always pay their mortgage.

And, of course, these adjustable rate mortgages, they knew sitting down across the table, one, they had no risk because they were going to sell it; there was no problem in terms of the due diligence looking at them at all. And so, it was built in failure occurring from the very get-go, and the problem.

So what Barney was advocating made absolute sense, and if they do come back, they ought to come back to risk retention.

MR. WESSEL: What else would you adapt Dodd-Frank too?

CONGRESSMAN FRANK: One point, the reason there was this assumption that people would pay their mortgages was the assumption that there would always be some residual value.

SENATOR DODD: Yes.

CONGRESSMAN FRANK: And it's when house prices dropped so rapidly that people were below water and had no equity: no equity + no house = goodbye.

MR. WESSEL: Right. Senator Dodd, what would you put in in Dodd-Frank II, or whatever they're going to call it?

SENATOR DODD: Well, look, I think we just talked about one of the areas. Again, I think that that would be important.

I think that would expand what is systemic risk -- and again, why we thought mainly of financial issues, but clearly, today, what we're going through with this (audio drop) that the systemic risk can occur outside of the traditional role of financial institutions that we think about. So, I would do that.

I'd come back -- I still think we need to tighten up the kind of compensation, the risk based compensation, which I think is still inherently problematic, that it encourages short-term gain and not long-term kind of thoughts about what sorts of decisions ought to be made.

I think the FSOC, again, hopefully they might go back and strengthen; I think it has great value and they should allow it sort of as a mark of some great strength.

The fact that institutions worried about being identified as such, it would have the salutary effect, I think, of causing people in these institutions to think twice about sorts of risk (phonetic) they want to get involved in.

And so, I'm less concerned about what they may do, if you have an institution like FSOC in place, than I am about whether or not they're going to impose some restrictions that might seem onerous to people.

So, those are 3 or 4 things that I think you could do that I think would help strengthen it.

And clearly, we need to move fairly quickly, because again, as I said this morning, one of the things that Barney and I, I think, both agree on this, we almost waited too long. You had the Affordable Care Act that the President with Congress wanted to deal with. But you begin to realize what's often said, we're both blessed and burdened in this country with no memory, in a sense.

We're already moved on; things had calmed down. They were now giving -- I hesitate to call it a gift -- but we're being told, here's a crisis that was not created by the very people we were helping out. We're confronted by a medical problem creating financial difficulties. We better start thinking about how we want to respond to this.

We ought to be thinking, for instance, I think the CRA needs updating. There's technologies now that make it available. CRA is no longer just dependent upon geography. These institutions are lending to people nationwide, on the internet, so it's not confined to that tougher neighborhood in your city.

So that idea between the OCC acting too quickly, trying to jam a regulation through here before the change in government could occur, that's something I would also spend some time on.

And I think race, and communities, and consumers need to now be factored into peoples' decision making process. And that ought to be factored into a new bill as well.

MR. WESSEL: Yeah, you raised a number of good points there. I mean, Congressman Frank, we are at a rather unusual moment, to say the least. Someone said the other day that we've now -- the use of the word "unprecedented" is now unprecedented.

And I'm curious -- just broadening our conversation a little bit to the current moment -- looking at all the new attention to racial inequities in the U.S. and recognizing that the financial system is part, but surely not the only part of the thing -- I'm curious what you think the Government, and as a society, we should be doing now, given that these problems are now so high-profile, and there seems to be a new will to address them?

CONGRESSMAN FRANK: I think there needs to be a massive attack on inequality. In fact, I'm trying to right a book on the subject right now --

MR. WESSEL: One of the people in the audience said, "When is Congressman Frank's book coming out?"

CONGRESSMAN FRANK: (Laughter) I don't need more pressure (laughter). Probably before a new Dodd-Frank Act, but I can't guarantee (laughter).

My feeling is, by the way, that this is the responsibility of the left because equity, equality has always been a project of the left. The right doesn't think it's important. They (inaudible) differences.

The problem I think we have is this, I think we are sticking cages inheritors (phonetic), are sticking too literally to Caine's (phonetic) message.

Caine’s, I think provided the formula that saved democracy against xenophobic populism and authoritarianism, and it was based on the situation that we had too little economic output in this society and we could increase it by stimulating growth. And that worked very well for years.

Then the economics changed, and the nature of capitalism changed, and we now have this incredible inequality, which is the whole mark of contemporary capitalism. That’s acknowledged. People could argue about what caused it and whether it's good or bad, but that’s it.

The problem is that the mainstream Cainesians, and this went through the ’90s, it's Bill Clinton and Tony Blair, they continued to focus on growth.

And in fact, because they wanted to show that their approach to growth was better than the conservative side -- that demand-side growth policies were better than supply-side -- that intervention was better than laissez-faire, they even diminished distribution because they regarded distribution as an obstacle in the right with the right because it hindered their argument to say they were better than growth.

And so what you had was, no, we called the Washington consensus -- the IMF and the World Bank pushed it, America pushed it, Clinton and Blair pushed it -- and it was the mainstream left saying, “Look, we gotta focus on growth in a sensible way, as opposed to the right-wingers not doing growth in a sensible way. But as part of that, let's not focus too much on distribution, that interferes with growth.” And the metaphor is, the rising tide lifts all boats.

Well, beginning in the ’90s and certainly on up through now, the rising tide has been going up the noses of a lot of people who can't afford boats. And that has provoked, I think, this global anger.

So, what we need to do -- and it's particular the left that has to understand that -- that the distribution of wealth has to become equal to how much wealth is created as a policy vote. And there's -- 2 to 1 -- one last (inaudible). Well, what happened is the left began to split on that.

There had been unity on the liberal democratic side -- even in ’68, when there were fights about everything else -- Humphrey was able to hold together on the economic program, the pro-growth economic program -- but what happened was when redistribution demanded attention, the mainstream focused on their problems with the right, increasing the sector of us -- because I was a part of this --

began to insist on redistribution but the mistake that many of those who focused on redistribution make is, they assume that redistribution of income is as easily sold politically as growth; wealth for everybody.

Redistribution takes from some, gives to others. And that brings us to the current Democratic Party.

I agree substantively with a lot of the people on the left within the party that we need to do more about redistribution. What I disagree with is their assumption that that's much more popular, and therefore they don't do it well politically.

But I think what the crisis, the double crisis, has given us -- both of the virus and of race -- is broader acceptance of the need to deal with inequality, both economic and racial. And I'm hoping that going forward in what I believe will be a new Administration, we can make that the case.

I should just add one last thing, I am not criticizing Caines. He died in 1946. The problem when we should have been focusing on distribution as much as growth is 50 years after he died, so it's not his fault.

MR. WESSEL: I'm sure he'll be glad to hear that (laughter). Senator Dodd, do you share Barney's view that it's time to focus more on issues of inequality, both economic and racial?

SENATOR DODD: Absolutely. I mean, I -- you're seeing here. It's going to be the -- you know, with that in the past, around the Great Depression, prior to that, there were real divisions in the country, and terrible distribution.

We're not just discovering it for the first time. And the saying, which is so true, Franklin Roosevelt saved capitals, but what he did -- obviously, the war and production helped on things -- but if we don't do this we're going to face a huge crisis of civil (audio drop), and we already doing it really.

I mean, what you're looking at about the recent protests and so forth, it's about race because clearly there's been a disadvantage within the minority communities here in terms of economic opportunity, and that's just getting exacerbated, particular without technology.

So when you end up with a handful of people that can now make an automobile, where you clearly have institutions that are down to a handful of people, the trained skill sets necessarily to survive in this modern economy, we had better start addressing it. We're so late in doing it that I'm worried we may be too late now in addressing it.

But what Barney has said -- whether you subscribe to a formula or not -- he's absolutely right, that the great economic problem is inequality in the system. And everything we're doing, in terms of access to higher education, student loans -- you can go down a long list -- are just exacerbating the problem, making it less likely we're going to get to it.

And it's generational because if you don't deal with it in a certain age group. A person ages into their 30s, out of their teen years and 20s and so forth, we've lost them. It's awfully difficult to get them back in a situation where they can be part of this new economy; a better economy that provides opportunities for income and wealth.

So, I really am deeply worried about this, and again, hopeful with a new administration there'll be some -- I don't want to use the radical -- but it's got to almost approach radical thinking about how we can create equality in the system.

CONGRESSMAN FRANK: Can I just come back to this? I want to tie this back into the Fannie/Freddie -- in fact, I just came across this a Brookville.

I think the goal for the mainstream democratic -- small D democratic left -- is to marry the perception that we need to focus more on redistribution -- and I think that can be fully compatible with growth -- but recognizing the political difficulty of doing redistribution, probably because this alienation that has come from inequality has given government a bad name.

So, one of the things that the left doesn't understand is that politically, our whole is smaller than the sum of our parts. If you look at this, and that, and the other -- expansion of medical care or more money for housing etc. -- they're individually popular. But when you put them together and they're government, that's easy to defeat.

In fact, Frank Luntz, the republican pollster, when we were doing our bill -- Fix and I and our colleagues -- he memo'ed the republicans, "Don't defend the banks and don't say that regulation is wrong, say big government is wrong. Switch the argument from the specifics of bad mortgages and credit default swaps, to it being anti-government."

But here's an example of how these tie in: Paulson used the authority that we gave him -

- the House and the Senate -- to take over Fannie and Freddie, and put them into conservatorship. They had to decide what obligations they would honor, and they decided among other things, to not honor the claims of the owners of preferred stock. They said those would have to go.

But here's what they said: they assessed the potential exposures of banks to the TSE preferred and that they concluded only a limited number of small institutions has holdings that were significant to their capital. So, based on that they didn’t allow them.

Guess what those institutions overwhelmingly were? Black-owned banks. Black-owned banks, because of their urban location and the concern for housing, were the primary purchasers of TSE preferreds, and totally not out racism, but out of the institutional racism that ignored that fact, and Treasury went ahead and abolished them.

And frankly, my colleague Maxine Waters and I got into a little bit of a political trouble because we tried to help these banks, in particularly, we were actually able to actually work with Charlie Rango (phonetic) (inaudible). We were able to give them some tax relief for their loss, but that was an example of what we were up against.

The fact that this was going to have a particularly negative effect on Black-owned banks was a nonfactor.

MR. WESSEL: Senator Dodd, I think one of the things that the pandemic has taught us is that when scientists warn us that something bad is going to happen someday, and we ignore them, we suffer the pain.

And it seems to me climate change is a great example of something that the scientists tell us we have to deal with. The political system is particularly ill-equipped to deal with long-run problems, even when there are some short-term symptoms.

And I'm curious how you think we get beyond that. How do we get -- if it's possible to get the political system to react to, and -- I mean, it goes to your going about where we’re looking for systemic risk on something like climate change? Is there any hope for more longer term awareness?

SENATOR DODD: There is. You know, we have such respect in the country historically for the Office of the Presidency, that when the President says something, whether we happen to like the politics of the President, it’s hugely influential in the country.

And so, here we have this overwhelming evidence, global evidence, of the impact of climate change. If you ask the Secretary of Defense -- as he was asked, a republican appointee Secretary of Defense -- what's the greatest, single threat to the national security of the United States? He gave an answer in about a second. He said climate change.

So, if you don’t necessarily want to believe that the people at EPA, listen to the Secretary of Defense when he tells you that this is the single, greatest threat to our security.

So, again, this is not a (inaudible), a forum of this, but clearly, when the President belittles the role of government, belittles the science, he basically has the influence that the Presidency does by the mere office that he holds, you can build up these kinds of mentalities, these kinds of attitudes that exist in the country.

But again, what more do you need to know in terms of rising water levels, we know that, about that now. I'm more confident about this.

I'm beginning to see globally that people are recognizing the value -- alternative energy is coming along, electric automobiles, the idea of a carbon tax, which is now getting republican support, realizing if you really want to reduce the carbon footprint, the way to do it is what we've done historically, tax it (laughter). That’s one of the quickest ways to get the kind of results.

So, I'm more optimistic because if you can change the leadership -- and I'm not talking about changing it from a democrat to republican.

I think just getting leadership in the country that is willing to accept the reality of these kinds of changes that are occurring amongst us, that we could get good results coming out of it. Not all at once, but we get good results.

So, I can't emphasize enough without (inaudible) to the point. Ronald Reagan said it, as much as people admired him, he said, “You know government’s the problem, not the solution.” You just feed that mentality that people are looking for an excuse.

And so, I can't tell you how important the next 130 days are. And again, it's not about a D and an R. It's about whether or not we have leadership in the country that is honest with the American public and reminding us what we need to do to avoid what the Secretary of Defense calls, the greatest threat to our security.

MR. WESSEL: Congressman Frank, I wonder if you can speak to, imagine that some young person watching this who has become rather disillusioned with how politics works.

She looks at what's going on in Washington where even in the face of George Floyd's murder, the Congress can't seem to get together on a police reform bill, that there seems to be more argument about process than policy, we can't seem to manage the pandemic very well.

And I think there are some young people who say like, "You know, the era of Frank and Dodd when they could get something done is over. And this is just not working for us." And I think it leads them not to vote, for one thing.

What do you say to young people who have been through -- some of them -- 9/11, many of them the 2008 crisis, and now this pandemic?

CONGRESSMAN FRANK: First of all, I have to stop and summon up much more restraint than I am inclined to express in this situation.

I have no patience with that argument in actually (phonetic), but I understand that if I make that clear I lose my ability to persuade them. I'm not worried about speaking more honestly here because it is inconceivable that anybody of that degree of cynicism and alienation has watched this for more than a minute and a half (laughter).

But the answer is, in the first place, I'm not asking you to do me any favors.

Let's take climate change: I will be dead before that has its negative impact. If you're 25 years old, that's your problem.

Secondly -- and it's probably -- and I understand the way you frame your question is a common frame today, but it's part of the problem.

No, the reason we haven't got a bill on police reform is a profound ideological distinction in America.

And Chris and I had somewhat different experiences. Chris mentioned earlier on when he opened this session that he had some input from republicans. We did not in the House.

And I think the sad thing is that the Senate republicans have now become more like the House republicans, probably because part of the current set of republicans started out as House republicans. But there's a fundamental ideological difference.

There is what Chris said, this Reaganite government is the problem and they have used that effectively, as I said, even when we have a popular, specific program, they said, “Oh, but it’s big government. You don’t want to do that.”

The answer is, the problems, as I said, are not technical, more procedural, when you have majorities in both houses you can get things done.

With Chris’ leadership, and Speaker Pelosi, we got the healthcare bill through. When we had the President, House, and Senate, we got our bill through. We repealed “Don’t ask, don’t tell.” We did a lot when we had that.

It's a political issue because the republicans have become the party against government. That’s a defensible position, but it has to be understood.

And people have said to me, “Well, when did this happen? When did the era of bitter partisanship start?” Very simple: January 21, 2009.

In 2008 when the Bush administration came to the Congress, Nancy Pelosi and Harry Read designated Chris and me to work with all these Bush appointees, and the result was the TARP and other things.

The day that Barack Obama became president, the republican approach was Mitch McConnell, our number one priority is not to have the government work, not to solve problems, but to defeat Obama. So, that’s where we are.

I will say this guarantee now and say -- sorry about the vicious cycle -- if those people who are so alienated vote, and vote -- this is partisan now, I have been bipartisan in the past -- but this right wing movement of the republican party means that they will not cooperate.

And therefore if you’ve got -- I'm making a prediction, if we get a democratic President, House, and Senate you are going to see in the next two years significant progress on a whole range of these important social issues: climate change, the expansion of healthcare, the beginning of dealing with housing, and that's what it is.

And I know it's culturally the norm these days to scoff at politics -- it's advanced, by the way, by even some people on the left who take this, "Oh, a plague on all your houses." And I would say, there are two thing -- I'll end with this -- there are two things I've advised people to stop saying that times have changed.

One is a plague on both your houses. No, democrats and republicans are not equally responsible. The other, in case anybody is interested is, don't say that someone is more catholic than the Pope, because a lot of archbishops think that they are (laughter).

SENATOR DODD: Let me jump in on something here because there a discussion today looking back 10 years.

It's a little known fact, and I'm surprised -- we probably should have made more of a point of this along the way -- on the Friday before the markup of the senate banking bill of this legislation we're talking about today, there were 401 amendments filed, as it's a tradition you file amendments on the Friday before the following the succeeding weeks markup of the bill, 401 amendments.

On Sunday of that weekend, my friend -- and we are good friends, Richard Shelby, called me, I was in New York, I'll never forget it -- and he said, "Look, the markup is on Tuesday, I just want to tell you, we're going to offer no amendments to what became the Dodd-Frank Bill.

The markup of the Dodd-Frank Bill in the United States Senate lasted 19 minutes, **19 minutes.**

To give you an idea, I was the Acting Chairman of the Labor Committee when Senator Kennedy got sick and was dying, and we had the longest markup since 1868 on that committee, literally hundreds of amendments were debated.

But here on this major financial reform bill, not a single amendment was offered in the committee structure, not one. And it lasted **19 minutes**.

Now, on the (audio drop), we had a more extensive debate, but it was reflective, in a sense, complaining about it but not offering anything to modify change and discuss what might be included in the bill. Other than Bob Corker, at the time he was the only real republican that was interested in working on something in the Senate.

MR. WESSEL: Well, we have to go but Senator Dodd --

CONGRESSMAN FRANK: And we still (audio drop) politics because of that, let's note, about Corker.

MR. WESSEL: Senator Dodd, do you want to tell us who your choice for Vice President would be if Vice President Biden gave you the option of picking the person?

SENATOR DODD: Yeah, nice try, David (laughter).

MR. WESSEL: Well, our times up. I want to thank both of you for coming back and helping us relive the past and relitigate the future. And we wish you both well and I look forward to the 20th anniversary of Dodd-Frank, but someone else can moderate the panel.

SENATOR DODD: Thank you.

CONGRESSMAN FRANK: Thanks.

MR. WESSEL: Bye.

SENATOR DODD: Thanks Barney.

CONGRESSMAN FRANK: See you, Chris.

(Recess)

MS. GUIDA: Hello everyone. Welcome back. So, for our next panel, we're going to talk about how Dodd-Frank is holding up in this current crisis, and whether it's prepared us for the next one. Some of the criticisms of the law had centered on the idea that Congress was fighting the last war addressing the problems that caused the 2008 crisis, but not necessarily in a way that would be useful for future crises. And I'm interested in digging-in to how Dodd-Frank regulations are and aren't built for the future.

As a reminder for those of you just tuning in, viewers can submit questions for speakers by emailing events@brookings.edu or by joining the conversation on Twitter using #DoddFrank10. I'm joined by Austin Goolsbee, a professor at the University of Chicago and a former chairman of the Council of Economic Advisors under President Obama. Aaron Klein, a Brookings fellow, who you'll recognize from earlier in the event. He served at the Treasury Department under Obama and before that worked as chief economist at the Senate Banking Committee. We also have Meg Tahyar, a partner at the law firm Davis Polk and adjunct lecturer at Harvard Law School. As well as Charles Yi who is a partner at Arnold & Porter, a former FDIC general counsel, and a former congressional staffer.

So, one of the prominent aspects of the government response to this crisis is the Fed's extensive actions under its emergency 13(3) authority, which was sort of curtailed under Dodd-Frank, but not too much. So, I want to start with a broader question to you, Austan. Did Dodd-Frank give the Fed too much power? Or did it strike a good balance? And how might Congress think about that going forward?

MR. GOOLSBEE: Oh, I thought you were going to say did they give them too much power or did it take away too much power? And then I was going to say, ah, or did it do both? Look, I think it struck a good balance. The thing that we're seeing with this COVID crisis and the COVID recession is very different from a typical business cycle. And thus far, there's not really what I would call a systemic financial crisis associated with COVID. There could become one, but it hasn't happened yet. So, in a way, this moment is not exactly a test of your -- of the premise of your question.

That said, the whole discussion and battle over are we restricting what the Fed is allowed to do in a crisis or are we enhancing what the Fed is allowed to do in a crisis? Which was one of the central themes of argument if you want to think of it in Dodd-Frank. I think the events of now kind of illustrate how hard it is to change things just by writing them down, even if you write them down specifically in the law.

So, if you take resolution authority and the argument of should there be allow -- should we allow -- should the Fed be allowed to do bailouts? Or should it only -- can it have hospital expenses or only funeral expenses? And we kind of wrote down, no, only funeral expenses. You can't use that for any medical bills of living institutions. And the fact that the CARES Act comes up with trillions of dollars and it says we're going to turn over $5 trillion of Fed lending to big businesses, kind of is in the spirit of saying maybe the tough guy authority, tough guy version of resolution authority is unrealistic. Even if that's what's written down on a piece of paper. If Congress decides they're just going to pass and hand it over to the Fed, they're just going to hand it over to the Fed.

MS. GUIDA: Yeah, and, Aaron, I want to bring you in on this. I mean, you know, obviously the Fed is doing a lot of things, bond buying. It's supposed to be lending to Main Street businesses. We'll see how that goes. Do you think that that, you know, poses a risk to the Fed? Do you think that that's, you know, in line with what Congress was kind of envisioning for 13(3) when the Dodd-Frank changes were made?

MR. KLEIN: So, Congress has been in a great fight against Congress. And it has been losing constantly while it's been winning. And to make sense of that gobbledygook, you have to appreciate what Congress did here. First, they restricted the Fed's authority specifically for domestic money market mutual funds, using a very specific tool called the exchange stabilization fund from the Treasury Department in the legislation that created TARP.

What was the first thing this Treasury Department did in this crisis? Use that very same fund to bail out the very same set of mutual funds, holding aside the law of the Fed. What did Congress come back and do? After the 13(3) crisis and the bailouts of '08, Congress tried to tame in the Fed a little bit. What did it do in this crisis? It turned around to the Fed and said, please save us. Please bailout society because the Fed is suffering from the curse of competence. What they did in 2008 broadly worked for the wealthy and eventually worked for many more people.

By turning to this same playbook here in the CARES Act, Congress has made a giant mistake. Let me be very clear. The Federal Reserve buying debt of Apple, eBay, Equifax, and Google does nothing to help Main Street or working Americans. It's great if you own stock or debt in Apple and eBay and Equifax and Google. That's what this current bond buying spree the Fed has gone and helps explain why Apple stock is at record highs, while the U.S. is suffering potentially a second wave of the pandemic and shutdowns are growing.

And so, Victoria, the question is a little bit more complicated because Congress is being deeply inconsistent. When it is politically popular to have a backlash against the Fed, it is taking a backlash. When there's a crisis, it's running to the Fed to try and save things. And everybody uses the term Main Street. And I can't figure out if Main Street is the Apple store and Potbelly's and Shake Shack, because that's who's getting the money. Or if it's supposed to be small businesses and workers because they're the ones being left behind.

MR. YI: So, Victoria, let me disrupt your careful sequence here and make a couple points. I know you intentionally didn't tell us what the questions were going to be beforehand, so we keep it spontaneous, so. Let me try to be spontaneous.

Two things. One, I have a slightly different analogy about the resolution authority than what Austan used. The way I think about what Dodd-Frank did is if you burn your own house down, your neighbors are not going to chip in for you to rebuild the house. You got to move. That's the way I view Dodd-Frank resolution authority.

As far as what Dodd-Frank did to 13(3), I think one change that was made whether you agree with it or not, I think it actually has a healthy impact on the Fed, which is that Dodd-Frank prohibited the Fed from bailing out any one individual company. And whether you agree with that policy or not, my fear during the last crisis was that the -- over time, if the Fed is, you know, it's continuing to bailout individual companies. So, people burn their house down and then the Fed is paying to have them rebuild it. I thought the political backlash over time wouldn't be too great for the Fed to withstand and possibly threaten its independence. So, I thought that would not be healthy in the long run.

MS. TAHYER: You know, there's one thing we're skipping over that's really important. Which is one of the breaks on 13(3) authority that Dodd-Frank put in place is that the treasury secretary has to concur. And what's happened in light of this horrible pandemic is that it was very easy to get the treasury secretary's concurrence.

But if you think about it in terms of accountability and responsibility, there could be situations and we worried about this at the time of Dodd-Frank. Would a treasury secretary be unwilling to use the political capital to unleash the 13(3) powers? So, that I think in a future crisis, could well be a break and it's probably an important break. It's just that here everybody is together on the need for something to happen. And they --

MR. GOOLSBEE: And I think that's right. And I kind of think the combination of Meg's point and Charles' point, it might be my inner conspiracy theorist, but I kind of think they did this on purpose. That we're handing all this authority to the Fed, we the Congress and the nation, --

MS. TAHYER: Right.

MR. GOOLSBEE: -- precisely so that if it goes wrong, they can say, oh, the stupid Fed messed the whole thing up. And if only the Fed, you know, we had nothing to do with it. And that I think is a really scary spot for the Fed to be in for its future authority.

MS. TAHYER: I --

MR. GOOLSBEE: Hopefully, everything will go fine. There won't be a crisis.

MS. TAHYER: Right. No, I --

MR. GOOLSBEE: If there is, --

MS. TAHYER: I completely agree with that because the Main Street program, putting aside Aaron's points on the moment on the bond buying, which is a financial crisis tool. But the Main Street program is something new and different. And who and what those companies are going to be whether that program is successful or not, and it's all going to be transparent, right? We're going to get names of lenders. We're going to get names of borrowers. We're going to know, you know, the core terms of the loans. So, there's going to be transparency there. And if it doesn't work, you're right, it's set up so the Fed takes the heat, not Congress.

Look what's happened in PPP, right? That's a program kind of the treasury and the SBA were having to build the plane while it was flying. And there were a lot of glitches in that. But it's not Congress who's taking the heat. It's the treasury and the SBA. So, --

MR. YI: (Inaudible) --

MR. KLEIN: Hold on a second there, because --

MR. YI: All right, now, back for Aaron.

MR. KLEIN: A couple things there. Number one, Congress is taking some heat and deservedly so on the PPP for giving money to the Lakers and other big, small --

MS. TAHYER: Right.

MR. YI: Go Lakers.

MR. KLEIN: You got the LA guy.

MR. YI: I'm from LA.

MR. KLEIN: Number two, I think there is no crisis for Apple's debt. There was a momentary drop in their stock price, boohoo, right? But thanks to the Fed, it's now flying high, right? Same with the rest of the NASDAQ. That's what the Fed's buying, 1 percent Apple.

Two, in terms of Austan, I think it's less conspiracy and more a combination of two things. Number one, the curse of competence. Kate Judge and I are working on this paper from the -- that the Fed was so good in responding to the financial crisis of '08, that Congress ran to it to deal with an actual viral economic crisis. I agree with Austan, the root causes of this crisis are totally different. Why 13(3) lending authorities should be the solution is not to me, a conspiracy theory of Congress trying to find a new blame guy, but the inability of Congress to do its job under Article 1, which is to pick who gets money. Does it go to workers? Or does it go to bond holders? What kind of workers? How much? And instead, funnel this through the financialization of the economy. The Fed and the banks and say, here, you guys figure this out. And I think that's problematic both inefficient in terms of responding to the real problem, and not good for the long run stability and purpose and role of our financial and our central bank.

MR. YI: So, to Aaron's point. He and I both worked in Congress and we'd like to think that we were devious. I don't think we were ever that devious. So, that's point one. Point two, is following up on the next point about the 13(3) and how the Fed needs treasury approval. I'm actually not sure which way that breaks because treasury is a political future, right? And --

MS. TAHYER: Yeah.

MR. YI: -- if a politician -- if the neighborhood is going down, right? The optimal solution is you get to build you house back and live in it again. But your neighbor's going to pick up the tab. So, somebody else pays for it, namely, the Fed. So, I think the treasury actually may be a motivator to push the Fed into doing more as opposed to doing less.

MS. TAHYER: Well, that's what we've seen in this crisis. What it will be like in the next crisis, you know, we don't know. But that's how it's played out in this crisis.

I mean, I want to get back to what you were saying about resolution authority, Charles. Because it hasn't ever been used, right? And either the bankruptcy variant or the liquidation variant.

And, you know, I certainly hope we're not going to have to use it as this credit cycle plays it's --

MR. YI: Yes, absolutely.

MS. TAHYER: -- way out. And so, you know, will we ever have proof of concept? You know, that is very unclear on resolution authority. But on the other hand, given all the work that's been done over the last 10 years, the creation of living wills and, you know, all of the kind of making sure that the channels of funding run in the companies, the best we can hope for there is what I'll call an announcement effect or a demonstration effect. The framework's there. And we'll be better off if we never have to use it. But at least we've put in place structures. We just don't have proof of concept.

MR. KLEIN: So, I hope we do use it.

MR. YI: I think it will be --

MR. KLEIN: If we never use it, that means that we've ensconced too big to fail. Because somebody's got to fail. If a single large bank never fails in the history of the rest of this country, then we have a deep problem. Let people who make financial investments lose money.

MS. TAHYER: So, --

MR. YI: The other parts of Dodd-Frank work so a big bank could fail, but it's not systemic when it fails. I'm hoping that's the case.

MS. TAHYER: Right, not systemic when it's failed. Well, that's the -- look, largest bank to fail since the financial crisis wasn't that large, right? That was Doral Bank in Puerto Rico. And that started out at 10 billion in assets. And with the use of, you know, timing, which I think the FDIC very effectively used, it was 3.9 when it did fail and then they managed a purchase and assumption agreement. That's a very --

MR. YI: Yeah, that was my --

MS. TAHYER: That's not a big bank.

MR. YI: -- first month on job by the way.

MS. TAHYER: Pardon me?

MR. YI: That was my first month on the job as the (inaudible).

MS. TAHYER: (Laughter).

MR. GOOLSBEE: Yeah.

MS. TAHYER: That's not a big bank, but I'm just saying there's been --

MR. YI: And that was hard by the way.

MS. TAHYER: It was hard.

MR. YI: It was hard.

MS. TAHYER: It was hard because --

MR. KLEIN: Failure isn't easy, but no failure is worse.

MR. GOOLSBEE: The thing is I still can't get past this. It's sobering as you look back at Dodd-Frank. I think there's a lot of important conceptual and detailed work that was put into Dodd-Frank, and we were rightfully proud of it. But this juxtaposition that in some ways it doesn't matter what's written down in the law if the administration or Congress or whatever is just going to ignore it.

And I said the resolution authority thing. Aaron had the better analysis. Which is things that were specifically forbidden, like with the money market mutual funds, that they just did it anyway because it's a crisis. That, you know, if you think about the consumer protection agency where they wrote down here's what the agency is to do, but if you appoint a head of that agency that just says no, we're not going to do it, there's not -- we're seeing there's not much you can do. So, it's good. It's still an achievement to write it down and to get that conceptual framework out there. But the devil is always in the enforcement of those things.

MR. YI: What you need is consensus in buy-in.

MS. TAHYER: (Inaudible) --

MR. YI: I mean, having been on both sides, having actually written law in Congress and then being on the other side at Treasury and FDIC implementing the same law --

MR. GOOLSBEE: Yeah.

MR. YI: -- you're sort eating your own cooking, which is not a good thing in my case. But I have seen the limits of congressional power. You can write whatever words you want on a piece of paper, but if you don't have buy-in from the people in the executive branch, that have to enforce to implement the law. OFR is a good example.

MR. GOOLSBEE: Yeah.

MR. YI: It's just not going to work. And I'll just give you a very small example of that. Is now I laugh every time I see in a statute that says Congress is mandating that agency so-and-so promulgate rules to implement this provision within (inaudible) days of enactment. Never happens. That law gets violated every time it's enacted.

MS. TAHYER: Right, and it's unenforceable, right? We're still waiting for some of the Dodd-Frank dates. Let's go back to -- sorry, Aaron, can I get a word in edgewise here?

MR. YI: (Laughter).

MS. TAHYER: Thank you. The money market funds, right? Now, we've got two instances and two separate crises caused by two different economics that the framework for money market funds is not working. And what was done after Dodd-Frank is not working. So, that in my mind, that means, you know, unlike other things in the Dodd-Frank framework, which are working pretty well, that's one that really needs a rethink. And --

MS. GUIDA: So, I want to -- sorry, Meg. I just wanted to --

MS. TAHYER: No, go ahead.

MS. GUIDA: I just wanted to jump in here. I didn't want to interrupt you guys because you had a good flow going there. But I also did want to ask, you know, because we were talking about, you know, resolution planning and all of that. One of the things that's always kind of fascinated me since Dodd-Frank is the fact for liquidity rules, nobody really knew how they were going to actually work when the chips were down. And so, I'm curious, I'll go to you, Meg, for this. I'm curious what you think about, you know, what this crisis has taught us about how liquidity rules work and, you know, how maybe they should be tweaked going forward for the next crisis.

MS. TAHYER: Well, let me say about the liquidity rules, and I kind of, I think of them and the leverage ratio in kind of the same breath. And what we learned in this crisis, is that there's a flight to quality and deposits, right? So, we've seen incredible deposit inflows into the banking system. At the same time, we've seen outflows from money market funds. But we've also seen deposit inflows coming from -- and this goes to the two big to fail point, I think from smaller banks into bigger banks. And so that is why there's had to have been some tweaks into the leverage ratio because it was about to become binding for some banks so they couldn't, in fact, do lending.

And Charles and Aaron and Austan probably know these better than I do, but I think that on the liquidity rules for banks, which are about HQLA is about, you know, what to do if there's outflow from the banks. We've had the opposite problem this time. We've had inflow. But, Aaron, over to you. I see you're nodding.

MR. KLEIN: I was going to agree with something that you said, Meg, about how the rules are unenforceable as Charles pointed out about an agency shall promulgate. In fact, I believe one of the ways that we could have avoided the financial crisis was if the Federal Reserve had required -- followed the law under the Home Ownership and Equity Protection Act of 1994, which required the Fed to promulgate rules on subprime mortgages. Congress required it in 1994. Greenspan said, yeah, not going to do that. Don't believe in it. Turned down Fed governor, Ned Gramlich on that. And the Fed didn't do anything until 2007, when, you know, the calf was way out of the barn.

Congress had no authority to do anything to the Fed, right? There's no appropriations. The Fed has all this independence. When the Fed ignores Congress, and it wasn't a may, it was a shall. The proposals I studied Dodd-Frank in a prior incarnation at the bipartisan policy center, and one of the ideas we came out links to an earlier comment about FSOC and part of that conversation earlier in the debate. Give FSOC the authority to promulgate a rule if an agency doesn't do it under -- misses a congressional deadline by 60 days. Let the Jedi council fulfill the mission if one of the Jedi knights fails.

I don't think the council will necessarily be able to do it, but man would that light a fire under the agency to get something done. Because agencies guard turf pretty zealously in this town. It's an idea. It strengthens the FSOC and deals with this lack of tools problem and it addresses what I think, Meg, you said spot-on and Charles what you point out, that one of the downsides of independence is the ability to ignore requirements in the law.

MR. YI: Just on that point, let's just note for the record that 10 years after Dodd-Frank was enacted, it's still not implemented, right? You still haven't set a comp in the waiting.

MS. TAHYER: And it updates to 23(A). But I'm not sure -- look, I want to go back to something Aaron said. Because there are the -- you know, there's some parts of the law which are unenforceable, right? And the courts will -- the original sin here is that the courts will not enforce the deadlines for regulatory agencies. There's a bunch of court cases from the '90s where folks tried to get agencies get a writ of mandamus and they all failed. So, if the courts would enforce those deadlines, you know, you'd get something more there, right?

You know, Aaron's point about institutional structures, right? Institutions rate broadly in the Douglas North kind of sense, are more than the words that are on paper. But Congress can choose to be inconsistent because they're the lawmaker, right? So, they changed the rules on the exchange stabilization fund and money market funds. In my mind, you know, that goes to, Aaron, what you were saying about Congress kind of having it's cake and eating it too. But for me, that's not a violation of law. Congress can change law.

MR. KLEIN: So, you're right about that. My point was -- I know because I helped draft this section of TARP that precluded the use of the ESF for domestic money market mutual funds because I had seen people trying to claw back--

MS. TAHYER: Right.

MR. KLEIN: -- the ESF for all sorts of good purposes, social purposes on the left and other budgetary purposes on the right. When treasury acted, it was before they changed the law in the CARES Act. I think Austan's analysis was spot-on, you know. Do it now and try later. And I have to say, when I was in Congress, I got very upset about this because law is the only power as Charles points out -

MS. TAHYER: Right.

MR. KLEIN: -- Congress has. But in the -- you know, when the ambulance and the fire department blows through the speed trap, you know, to fight the fire, there's some push it and pull back. What I think we found is that Dodd-Frank's structure really worked pretty well in giving the bank regulators the tools to handle this authority, And if anything, Congress went more towards the bank regulation and the banking system to fix this recession, which had far nothing -- little to do with the banking system.

MR. GOOLSBEE: Yeah, you know --

MS. TAHYER: Right, so, your point is we would have been better off being like the

Europeans instead of doing a PPP program and doing it through the banks, just make direct grants to small businesses, right? And Switzerland --

MR. GOOLSBEE: And we're --

MS. TAHYER: -- it was a 24-hour and you had your money, yeah.

MR. GOOLSBEE: I was going to say. It's changing the focus a little bit, but if you take a step back from some of the specifics of Dodd-Frank, two of the big themes of the reregulation of the financial sector and of Dodd-Frank, one of those themes was making the Fed more of the centerpiece of -

MS. TAHYER: Mm-hmm, yeah.

MR. GOOLSBEE: -- oversight of big systemic institutions to try to forego them developing this systemic crises. And the second was the financial institutions need a lot more capital. And force them to hold more capital, raise capital, et cetera. Both of those lessons of Dodd-Frank have proved quite important. Many of the things that we're talking about now are precisely because there has not been a financial crisis associated with this recession. And I think you could argue that one -- at least a couple of the main reasons there has not been a financial crisis have been that the banks and financial institutions have a lot more capital than they had in 2008.

MS. TAHYER: Mm-hmm.

MR. GOOLSBEE: And that the Fed moved quickly and has a central position. And because of stress testing and because of others, they can have an influence in a way that they either were reluctant to have or felt they were not able to play in the run up to the financial crisis. So, if you take a step back, it got -- Dodd-Frank got two really big things right, have been proven right at least thus far in the crisis.

MS. TAHYER: Agreed.

MS. GUIDA: So, I also want to jump in because I feel like one of the themes that you guys have been talking about is this idea that Congress only has so much power to reign in what the Fed's doing, what the regulators are doing. So, how much of, you know, the downsides of what's been done are really just Congress is limited. Like it's not necessarily a flaw with Dodd-Frank itself, right? It's basically just -- so, for example, one of the themes earlier in the event has been personnel's policy. And, Charles, you mentioned the Office of Financial Research where, you know, that's basically disappeared in this crisis. And, you know, there's also some argument about, you know, FSOC not having nearly as much power. A lot of people think that the CFPB has been defanged as well.

So, I mean, how much of this is just, you know, you all think that Dodd-Frank was a good law. And there's just, you know, it's not necessarily going to be enforced exactly how Congress envisioned. And how much of it is, you know, Congress didn't do a good enough job writing the law in a way that was sort of more ironclad for, you know, these agencies to be doing things.

MR. YI: I'm going to have to bust out an army analogy here. So, in the army they taught us that you can build the best bunker ever, but if you don't man it and if you don't defend it, it's useless, right? So, Congress built us a really nice bunker. But in the army they tell you, you need observation and you need covering fire, right? In civilian terms, we're not busy dealing with applying kinetic energy to each other. That means you have to be vigilant in monitoring the financial system, and then you have to have people manning the bunkers who are willing to use the tools that were given to them by Congress. So, I think Dodd-Frank built us a nice architecture for dealing with crises going forward, but then you also need the people to implement the law and use the tools they have.

MS. GUIDA: Yeah, well, and, you know, for the 13(3) authority too it really strikes me because you guys have been talking about how, you know, Congress changed its mind essentially on money market mutual funds. And I feel like there's a theme of that too in terms of what you all were talking about of Congress kind of handing the reigns over to the Fed and saying, look, you deal with it. And so, I mean, how much of this is also just inevitable, right? Where, you know, these are -- they're always going to be incentives for Congress to do -- to hand things over to the Fed to bailout money market mutual funds. And how much of this can actually be solved long term? Aaron, you're shaking your head. So, I'll go to you.

MR. KLEIN: We had a lot of recessions before the great financial crisis. Most of them were caused at one level or another by a combination of extraneous shocks plus Federal Reserve interest rate tightening, right? In the last recession, the financial crisis was caused by horrific financial regulation plus blah, blah, blah, blah, blah, blah, blah, right? And it wasn't a monetary policy situation, and ultimately, the Fed used a series of 13(3) authorities. The first time we tried to rescue the system through this unusual financial situation.

This crisis was not -- this recession had nothing to do with the financial system as its root cause, right? It was a real virus that infected the real economy that then had a ramification in the financial markets. That's the exact opposite of the last crisis that was an infection of the financial markets that infected the real economy.

In my opinion, a better functioning Congress would have done these authorities and cut a deal. Look, in 2007 and '08 in the recession, we sent direct checks to people. We negotiated the treasury department, not the central bank, as the one who would inject hundreds of billions of dollars of capital into the banking system, right? That was a democratic Congress with a republican president in an election year.

But now, we've reached a structure or problem where everybody's turning to the Fed. And we can debate why is that? Is it that Congress can't reach an agreement? Is it a lack of trust of this administration? Does it have to deal with -- ironically, the transparency issues Meg pointed out. By law the Fed is being more transparent than the treasury department as it relates to PPP and SBA, right? I'm old enough to remember when transparency at the Fed was a giant goal. And now it's the treasury department and other aspects of this administration.

But I am concerned that this is a structural change where the Congress is going to give up its more effective and important tool of direct monetary policy and try and solve fundamental economic problems through financial means. Which I think is both less efficient and deeply inequitable in terms of the results.

MS. GUIDA: I do want to talk a little bit about OFR too, specifically. Which is do you all think that the issue is just personnel or do you think that the way that it was designed in Dodd-Frank sort of doomed it to not really have much power and not really work?

MS. TAHYER: I'll start there with the unpopular position. I don't think it's personnel. I think it was flawed in its inception. You know, it was a last minute add and it was, you know, it was an idea. It was kind of a great idea of some academics about, you know, let's just in the same way we get all weather movements, let's get the movements of all of the, you know, transaction flows of all financial transactions.

But until we get artificial intelligence, none of that's possible. So, I think having seen that the original conception didn't work, they tried to do something else and you've already got all of the agencies basically doing research. So, I call it a good idea, badly flawed, and we don't have the kind of the technology to do what it wanted to do. So, I think it should, you know, I just don't think it's doing anything and that it will do anything. It's an unpopular viewpoint in this group, so, you guys can jump in and disagree.

MR. YI: By just having lived it, the OFR is just the result of the debt by 1,000 cuts during the legislative process, right? Because OFR was one of the efforts that what we were talking about with the Fed actually getting powers in Dodd-Frank. When we went into the legislative process, there was a lot of desire to sort of even out the distribution of power among the different agencies as opposed to one agency just having a monopoly.

And OFR was designed to be a counterbalance to the Fed. And it was initially designed to be outside of the treasury. But, of course, treasury and the Fed were one in the same in some respects. So, there was a great deal of resistance. So, during the legislative process, OFR got gutted and neutered, and got put inside treasury where treasury could just keep its thumb on it and keep it from the (inaudible) power center to the Federal Reserve.

So, that's really the reality you see today. And that's just an example of what I'm saying is that Congress can write whatever law it wants, but if you don't buy-in and consensus from the people who have to carry out the law, that's the results you're going to get.

MR. GOOLSBEE: In a way, that one's got a -- that one cuts both ways because they -- you can undermine a law that's written through personnel decisions or by just not enforcing it. Or you could undermine the law as it's getting written. And there was one conception that the OFR would be an independent power base that they could subpoena the data that if the OFR called you up, you know, the CEO would be like oh, my God, the OFR called. Get the stuff and send it to them so we don't get in trouble. That was already by the time Dodd-Frank passed, that was already changed. It was piped through treasury so it was, yes, we could have a more robust leadership at OFR. They could embrace a bigger mandate than what they have, but I kind of think that long ago, that one was already out of the barn.

MR. KLEIN: So, let me just add that we have a problem in structuring all these new -- all these agencies, right? One theme of every financial crisis is you add a new agency, right? Dodd-Frank added two and a half, OFR, CFPB, we'll debate the FSOC counts. So, but we didn't create them as stand alone. The CFPB exists inside the Federal Reserve system, right? OFR exists inside treasury, right? This isn't unique. I mean, the OFR thing. The OCC exists inside treasury. But the OCC acts more independently than the OFR within treasury, right? And that's a choice of leadership.

And so, I think there's a little bit of truth on both sides here. You know, the OFR director chose to serve more as a staffer to the FSOC, right? Part of this is the law was unclear. Are they the staff to the FSOC? Are they the principal? Are they informing it, right? And when an OFR person chooses to submit their analysis to treasury and to the other agencies of FSOC for comment, then they're foregoing their own statutory independence. They're gaining something else. And that was a choice made by the OFR. The OFR played its cards leaning more towards independence. It could have lost other things. But, you know, one of the core problems we have is we're not creating new standalone agencies. Every new standalone agency when you actually look carefully, was placed inside something else.

MS. TAHYER: Well, maybe we have too many agencies, right?

MR. YI: If I could I mention just mention about Dodd-Frank that I wish could have been stronger in addition to what Aaron -- a few other things is OMWI. I don't think it's been mentioned today at this conference. But the Office of Minority and Women Inclusion. It was part of the legislative compromise and I think it took a lot of effort just to get it in Dodd-Frank. The entire bill was at a knife's edge and it's just getting to (inaudible).

But if you look at the OMWI provision that went into HERA, that governs the GFCs and the home loan banks, and then you compare that to the legislative compromise dealing with the Dodd-Frank, you'll see that there was a lot more that could have been done. And that's really the -- one of the issues that I wish that we could have been stronger on in Dodd-Frank.

MS. GUIDA: Meg --

MS. TAHYER: We've got 100 years --

MS. GUIDA: -- which agency would you get rid of?

MS. TAHYER: Yeah, we've got a 100 years. The Volker Alliance has a really good study out in PowerPoint. We've got 100 years of trying to, you know, rationalize the boxes of our regulatory agencies. We've got three Federal bank regulatory agencies, but we've got a 100 years of failure in trying to, you know, combine those boxes. So, that's probably too big a one to take on.

But I wanted to pick up on something that Charles and Aaron were saying was because there's a limit to Dodd-Frank in its framework, right? The framework has worked really well in many things. We've got a bunch of stuff on the agenda now that wasn't on the agenda at the time of Dodd-Frank. Cyber security, what people call innovation, but I think really means, you know, fintech, particularly payments, you know, digital currencies, central bank digital currencies. And the Dodd-Frank framework, because Dodd-Frank's really just a blueprint, has nothing to say there, right?

And so, we have choices to make about whether financial regulation is going to be, you know, whether payments companies are going to be regulated at the state level or a federal level. And I'm not sure Aaron, that's a new agency. But that's kind of where the future is. And if we think about things like financial inclusion, right? Because there's a limit to what financial regulation can do in terms of solving the really tough social and moral issues we have at the moment. But if you think about financial inclusion, you know, payments and digital currency are, you know, that's part of the architecture. I'm trying to build a new house not keep burning down houses, and maybe it's a bunker I'm trying to build.

MR. GOOLSBEE: (Inaudible) house.

MR. YI: So, I'm --

MS. GUIDA: Is it that Dodd-Frank doesn't have anything to say on Dodd-Frank -- or on financial innovation or that's actively potentially going to hold back financial innovation because it's outdated?

MS. TAHYER: I think it's just silent because it wasn't on what we're calling innovation now, I think it's silent. Aaron, I know you wanted to say something.

MR. KLEIN: I just wanted to say, you know, the payments perspective is exactly illustrates the earlier point we made. The Federal Reserve by law is required to update the availability of funds, the Expedited Funds Availability Act. To let people have their money as quickly as possible. And the Fed has willfully failed to do this for decades. In large part, because its competitors have built a better system than it and it doesn't want to lose market share as an operator. So, it's not fulfilling its legal regulatory requirement.

What's the upshot of this? The stimulus checks went to people, the funds through the Federal Reserve, on Good Friday. And they didn't get access to their money until the following Wednesday. Billions of dollars were lost in overdrafts, check cashing, late fees, the financial stress. What's the statistic? One out of six mothers have problems putting food on the table. And yet your money is sitting in a financial netherworld for five days. These are treasury funds.

We don't need a new regulator. We don't need a new Federal Reserve payment system. This is a problem of regulatory will in an under -- we don't need a central bank digital currency. All you needed was a regulator who had the will and authority to say, why should millions of Americans in the midst of a pandemic suffer five days for their treasury funds to be made available, while the banks I regulate make billions in overdraft fees? And the Federal Reserve wasn't up to that task even though the law requires them, requires them to update these funds availability acts, time schedules, which they haven't done.

MR. YI: So, on fintech and Dodd-Frank, I mean, I have to agree with Meg that Dodd-Frank was not contemplating financial innovation in industry. I mean, I was there. We were busy trying to deal with the crisis and how to strengthen the financial system.

I will say, though, I think one aspect of Dodd-Frank that I think some fintech companies have found helpful, probably not everybody, but the fact that a lot of fintechs intersect with consumer lending consumer laws. And I talked to a few companies that have had this experience. But now that Dodd-Frank is consolidated, the administration and oversight of all the consumer laws into one agency, namely the CFPB, and I know that earlier today in the conference there was some discussion and debate about the CFPB. But I think the fact that there's one single point of contact for a lot of these consumer facing fintechs to go to, I think it's a byproduct of Dodd-Frank was not part of the intended design, but a lot of fintechs I have talked to have found that to be helpful.

MR. GOOLSBEE: You know, I think that if you take fintech or the development of some other financial developments, that were not on our radar screen when writing Dodd-Frank, the one thing I will say is that with the FSOC or the OFR or there a series of institutions, which if somebody wanted to, you could envision if they viewed the development of some alternative payment system as being a systemic threat to the system, that they could take either regulated or the Fed could oversee it or the FSOC could identify here is the systemic threat that we've identified in the system. And that's at least healthy. That kind of did not really exist before Dodd-Frank.

So, with the invention of fintech in a world before Dodd-Frank, there would literally be nothing that anybody could say about it. Now, we still have the problem if the administrators don't want to get involved, it will be hard to get the horse to drink, you know, even if you got it to water. But I do feel like Dodd-Frank at least gives you some tools to identify things on the horizon even if we didn't have them in mind when we wrote the law.

MR. KLEIN: Austan's spot-on. If you look at the data requirements that the bureau has, right? These are a huge question about the value of the rights of your data and who has access to it and who can permission it. This is a huge and consequential decision for fintechs. And Dodd-Frank creates the framework. Now, the bureau has to make a tough choice. And it's very hard --

MS. TAHYER: They haven't done anything.

MR. KLEIN: It's hard to regulate people making tough choices. Somebody's going to be unhappy. You have fintechs innovation, you got banks, you got consumers. You got a big problem and an issue. You know, when Director Cordray was on earlier, he was making some progress on this. Where's the bureau on this? I mean, right? The structures in place. I think Dodd-Frank was remarkably resilient to these new innovations that were not on people's minds, as Charles points out. But all the law can do is create the structure. The regulators have to make the tough choices.

MS. GUIDA: So, I'm going to jump in here because there's an audience question that I wanted to pose to you guys. Meg, I think, I'll start with you. They're curious what you all make of the new interpretation of the Volcker Rule and how that might impact systemic risk.

MS. TAHYER: Well, I think I agree with the earlier panelist. I can't remember his name. It's the fellow from MIT. You know, the changes to the Volcker Rule are really they're -- on both the prop side and on the fund side, they're really a slight recalibration based on the lessons learned, right? Statute hasn't changed. There's been some loosening of some elements based on kind of almost 10 years of experience.

And I think at the end of the day, the prop ones have been in for several months now. I don't think we've seen anything major happening there one way or another. It's still market making underwriting. I think on the fund side, some of the changes that went in last week, particularly permitting venture capital funds, which, you know, had been raised on the congressional floor the Thursday before it passed, will be helpful in an economy that is trying to, you know, to have investment and to move it's way out. So, I see them as minor technical changes that move the needle just a little bit. I think, you know, coming in as a policy matter, I think there's many, many much more important things for folks to be looking at.

MR. YI: I'll take a step back and kind of observe that we're still in the implementation cycle of Dodd-Frank 10 years after the fact, unfortunately. We have observed that there are still regs that need to be done, but. And I think we're in sort of the oscillation cycle of this. Take CFPD for an example, right? Depending on what happens in November. I think all the enforcement activity and regulatory activity at CFPD will snap right back.

And I feel like Volcker is another one of those. I suspect, I don’t know, but I suspect the next -- the democratic administration will probably snap some of these things back or scale back what was just done. So, we're still in this up and down cycle. And I think what we're kind of hoping to see kind of a stabilization of the oscillation because it's not healthy for the financial system or to the public to have that back and forth constantly.

MR. KLEIN: So, I agree with you, Charles. And that's one of the things that concerns me about the Supreme Court's decision yesterday, which fundamentally makes that oscillation the kind of new norm for the bureau. And probably the FHFA, right? I mean, the logic about this kind of invented right wing judicial logic that a single agency had is somehow different then -- they don't call it a bipartisan commission in justice's ruling, they called it a balanced commission. I don't even know what that word means that Justice Roberts did, kind of invented as part of this strange rationale.

But that's exactly what the Supreme Court is heading us to. Heading us down this road, which I share your concerns about the kind of long term economic and the incentives to develop a system that innovates in regulatory box A, but then when party B's in power, it fails. But then if you hold on long enough, and you're going -- I mean, you're going to have these banks and other innovators literally build up two compliance regimes, right? The democratic compliance regime and the republican compliance regime. Which makes no sense and but I do fear the court pushed us further down that road by weakening regulatory independence for in both housing, finance, and consumer regulation.

MR. GOOLSBEE: I see what you're saying there, Aaron. I guess, there's some evidence going both ways. I was very close friends and my personal hero, Paul Volcker was really my hero and I worked with him at the time of Dodd-Frank. And at one point, I asked him about it wasn't called the Volcker Rule, that came later. I asked him about this proprietary trading and the argument couldn't this just be left to the regulators that if they think it's important then they could -- then they have the authority. And his view was there is something important about writing it down. That even if it was not to be enforced, if it was on the books, we want commercial banks not to be doing proprietary trading for their own accounts with subsidized money because they have access to the discount window. If that wasn't explicitly written down, there would be massive lobbying pressure on the head of the Fed or on whoever was making the decision. Oh, we're safe or leave us alone, you know, and not do it.

And so, to the extent that they're going to argue about the granular details of should this be included? Should treasuries be included? How should venture capital be treated, et cetera? That's fine. That's healthy. They should sort that out on the basic idea about the philosophy. Should you be able to get subsidized money and then invest that money for your own account. I do think there's a benefit for that to be written down.

The other side that I think is relatively unhealthy is if we write down the idea of systemically significant financial institutions, and that the Fed should be their regulator, and then you have those institutions suing to say, no, no, you can't declare us to be systemically significant. I feel like that's a really serious threat to the whole enterprise because that's kind of -- that's one of the central nuggets of the idea is that there are not traditional, circa 1934 style financial institutions and they need to have a regulator. And that regulator should be the Fed and they could apply a CIFI charge or whatever. If you are able to use the court system to get out of that, I kind of think that really goes at the heart of the law.

MS. GUIDA: So, we're almost out of time here. So, for -- let's do a lightening round of something that you think is one of the big things that Dodd-Frank didn't address that does need to soon be addressed. So, I'll start with Austan.

MR. GOOLSBEE: I guess I would say the GSEs. I mean, that was an obvious. They were obviously central to the financial crisis. They're super important. And I don't -- if Dodd-Frank might not have been the right venue, you know, it was hard enough to pass it as it was. So, I could see what you wouldn't reform GSEs at the same time, but that's probably the most obvious one.

MS. GUIDA: Aaron?

MR. KLEIN: Payments. They are a giant reverse Robin Hood, which our decrepit payment system sucks tens of billion dollars a year out of families. The half of Americans who live paycheck to paycheck. It is exacerbated in this COVID recession. It is a simple regulatory and technological fix. And the inability of our legislative and regulatory system to get this one right deeply concerns me at the same time we all talk about the serious problems of income inequality. Here's a very simple fix. The Federal Reserve could do it tomorrow. There's legislation by Senator Van Hollen in the Senate. It could be passed with no budgetary impact and put billions of dollars in the hands of folks and put a real dent in overdraft and payday lending demand. That to me is the single biggest problem that we could solve easily and have a giant impact today.

MS. GUIDA: What about you, Meg?

MS. TAHYER: I actually strongly agree with Aaron. Payments. Getting payments right. Modernizing payments and getting it regulated. I think actually there probably needs to be legislation and we need some kind of payments, Federal charter, and we need real attention on that regulation and real attention on that charter in getting the payment system right. We're so far behind. And if there's anything that of the many lessons we've learned from COVID, fixing payments is one.

MS. GUIDA: And, Charles, you have the last word.

MR. YI: Thank you. Just on GSEs. I know that during Dodd-Frank, we were criticized for not including GSE reform. And 10 years afterwards we still don't have it. And I know how difficult it is both substantively but politically to do GSE reform. When I worked for Chairman Tim Johnson of the Senate Banking Committee, we spent at least a year and a half to two years of our lives working every weekend trying to get that done and we ultimately could not.

So, to say that we should have done it with Dodd-Frank when we barely had 60 bills for Dodd-Frank and often we were down to 59. I'd have to scrape together a (inaudible) bill to get that passed. I think GSE reform would have meant that Dodd-Frank never got done. So, I'll end with just two words, CCP resolution.

MS. GUIDA: Oh, you threw in a curveball there, okay. So, we got payments, Fannie and Freddie, and central county parties, okay. Well, thanks, everybody. I feel like we could have done another hour of that. That was fascinating. We're going to take a short break before the final panel.

MR. YI: Thanks, everyone.

MR. GOOLSBEE: Thank you all.

(Break)

MS. MUI: Hi. I think we are ready to get started with our final panel of the evening. Looking at some of the global implications of Dodd-Frank. We are going to be taking a look at not just the lessons that we've learned over the past decade, but also focusing on, you know, what we have figured out has worked from a global perspective, what needs to be improved upon, and how some of the dynamics have changed internationally since Dodd-Frank was put in place during the financial crisis.

A couple of housekeeping notes as we begin here. First of all, for those who are just tuning in, viewers can submit questions for this panel for the speakers by emailing events@brookings.edu, or by joining the conversation on Twitter using #DoddFrank10. In addition, we do have one member of the panel who was unable to join us unfortunately, and that is Nathan Sheets. But we do still have an all-star roster who's going to be joining us for the next 50 minutes or so. We have Gary Gensler, former head of the CFTC, now at MIT. Don Kohn, former vice chairman of the Fed, now a member of the financial policy committee at the BOE, and, of course, a senior fellow at Brookings. And it's also our pleasure to have SEC Commissioner Hester Peirce.

So, we have a lot to cover in just a little bit of time. And I'd to start by talking about the Financial Stability Board, which is one of the institutions that was set up following the global financial crisis. One of sort of the outgrowths of the international consensus for coordination post Dodd-Frank. And, you know, it seems like one of the first priorities and the main priorities of the FSB was really to ensure the stability of the global financial system. And it seems that during this pandemic, it appears to be working as of now. So, I'd like to start with an unusual question, which is what did the FSB get right? Or what did sort of our international regulators understand in setting up of the FSB that has allowed it to work during this crisis? And then we can go on and talk about ways that it can be improved. Just to open that up to the panel just to get started.

MR. KOHN: So, maybe I'll start, Ylan. I think the FSB was, as you said, one of the great things to come out of the global financial crisis. Badly needed going in to get coordination and cooperation among regulators and some uniformity or some consistency across jurisdictions. We operate in a global financial market. In 2007, 2008, the earthquake started in the U.S., but quickly spread throughout the world. Here, we have a pandemic that's spreading throughout the world.

So, I think the imperative is to get the global financial regulators talking to each other and lining up their regulations the same at being -- it doesn't have to be exactly the same, but making sure that financial stability is protected in all the key jurisdictions.

I think an important point here, which you brought out was, that this had the support of the governments. So, it started really in the fall of 2008 at the G20 Pittsburgh Summit where financial stability forum was discussed and how it needed to expand. And by the time April of 2009 came around, the Financial Stability Board was created with additional powers. But the important point is that the heads of government of the G20 countries were behind it and that's what gave it the force to be successful.

And let me, we can come back to this global successes and failures right now, later. But

I think it's been very successful in banking. Basically, supporting the Basel Committee on bank supervision and encouraging that committee. But in the nonbanking financial markets, I'm not sure it's been that successful. We had some pretty bad seizing up of markets in the U.S. and elsewhere.

MS. MUI: Don --

MR. GENSLER: I don't if you wanted another view. But just for our listeners, the Financial Stability Board is not the only international organization. And I think it came together out of a G20 effort, as Don said, in Pittsburgh in 2008, seeing the crisis unfold, seeing all the problems. There were already international ways to convene. In the securities field, IOSCO had been doing this for decades. In the banking field and capital field both between the Basel Committee and the Bank of International Settlement, and on and on. There are other committees, OECD even did some things in standard setting.

I think what the FSB was able to do is bring those various slipstreams, bankers, finance ministers, securities regulators, in one area. And then twice a year initially, they had to report up to heads of state. And so it sort of for a while, elevated it and brought a bunch of folks together. I think secondarily, they also had resources. I'm not entirely sure of their funding, but they have some really good staff and they put out some good research and the like. And, you know, now, I think it's run by Randy over at the Fed. It had been run for a while out of Mark Carney in the U.K. I think there's been some good leadership as well over time.

But I really would stress, there's a bunch of other international organizations. And most of the wood gets chopped in those other organizations, I think. Not to diminish the Financial Stability Board.

MS. MUI: Sure. Hester, if you can weigh-in here. What does that international cooperation look like from your standpoint in the midst of responding to this (inaudible)?

MR. GENSLER: You're muted, Hester.

MS. PEIRCE: My views represent my own views and not necessarily those of the commissioner and my fellow commissioners. I wouldn't want that to be muted out.

But the FSB, I think, has been a really important convening place for regulators and central bankers to come together and talk. And I think, you know, as Don pointed out and as Gary pointed out, this is something that was developed in advance of the crisis that we're in now and the relationships that are fostered at the FSB and at these other international organizations have really come into play at a time like this when we all need to be talking to each other and at least understanding where one another comes from.

And so from my perspective, that's really the most valuable piece of it. It's to learn from one another. It's to talk to each other, share experiences. And having those strong relationships means that it doesn't take a lot to pick up the phone and call someone. We have frequent calls. I'm part of one of the FSB subcommittees. We've had frequent calls over the past several months. We can't get together any more as no one can anymore, but we stay in touch by phone. And I found it very -- personally, very valuable just to learn what's going on in other countries and what they're thinking about in terms of addressing the problems that we're all facing.

MR. GENSLER: I think what Hester's saying is critical that there's some relationships that are formed before you get into crisis because when you're in the foxhole, you know, it's good to know, you know, not just who to call, but how they work, and their different cultures and different politics around the globe and where they can move. And sometimes, frankly, where they can't move. Maybe they don't have statutory authority or maybe their local markets are sufficiently different that we have to be respectful that there's some differences. We can't both do the same thing.

MS. MUI: Hester, just curious. What have you found to be the most useful channel of coordination and cooperation during this current time? Has it been the FSB? Or is it another institution or organization? Where do you see you, personally, working most closely with international counterparts?

MS. PEIRCE: Well, as Gary pointed out, there are a lot of different international organizations. And, for us, as a securities regulator, IOSCO, is a big central piece of our international work. And we've had relationships through IOSCO for years. And so that's really a key place for us. I personally have been more involved on the FSB on the SCAV, which is one of the subcommittees. And so that's, for me personally, been a more active place. But I would say that we, you know, we have lots of bilateral relationships as well. And those are very important too.

So, I think it's a mix and one of the important pieces of being part of so many different types of cooperation, is that we have to moderate the pace and make sure that we're all coordinating and make sure that we're not doubling up on work done in one entity.  We don't need to do that same work in another entity.  We can draw on that work.  And so, I think that's a continuing challenge, right?  When you set up new bureaucracies, new organizations, it can be hard sometimes to say, okay, we're going to get you to focus on this piece and we'll get this other group to focus on this piece.

But ultimately, a lot of the work gets done by our staff at the SEC.  And I think I've been really impressed with the way that our staff has been able to do so many things during the crisis.  You know, we're running our normal regulatory work.  We're working on domestic COVID issues.  And then they're also contributing immensely to the efforts of the FSB and IOSCO and other international groups.  So, it's really a testament to the work of the staff.

MS. MUI:  I think several of you all have mentioned sort of work on that FSB has had in supporting Basel III.  I believe they put out an estimate of bank capital requirements have sort of doubled since 2011.  Can you talk a little bit about that focus and how important the increase in the capital buffers have been internationally?  Maybe start with Don.

MR. KOHN:  I think the increase in capital buffers has been hugely important and liquidity buffers as well.  So, the banking as others have said in previous panels, this is not a financially originated crisis.  It's coming from the health but is having financial knock on effects.  And I think it's important that the financial system be able to contribute to keeping the economy going, keeping credit flowing from savers to spenders so that we're not taking a health crisis and making it even worse because the credit system is freezing up.

And the increase in bank capital and bank liquidity has made those banks safe.  And in most countries, certainly the U.S., the U.K., Eurozone, the banking system is being used to get credit to businesses who need it to reduce the scarring from the crisis.  To enable to the businesses to keep people onboard to enable them to open up later.  So, banks have been -- have made a very positive contribution to trying to make it through this horrible, horrible situation that we're in, and minimize the damage coming back the other way.  And that would not have been possible without the previous reforms that made them safe.

MR. GENSLER: Can I ask Don a question rather than answering that? There was in earlier panels today, there was this debate about whether capital buffers and increased capital was the result of U.S. Congress action through Dodd-Frank. Or was it happening aside, apart from Dodd-Frank. In essence, would have happened in event. And there were some lively -- I mean, Janet Yellin weighed in. In a different time, Barney Frank himself weighed in. But Andrew, I think, Olmem, raised it earlier on, so. Don, what was your thoughts on that?

MR. KOHN: So, I think the Fed and the other banking regulators, let's leave it on the banking side, were in the process of raising capital and forcing the banks to raise capital. And the stress test in the spring of 2008, were a key time at that. So, for sure they were on the way up.

But I thought Dodd-Frank, and I think somebody, one of the panelists made this point. Gave the legislative push, the legal underpinning for continuing that process. It mandated the stress test. It mandated making sure that the -- particularly that the systemically important institutions were safe because their failure has greater costs for the economy than the failure of a smaller institution.

So, I think Dodd-Frank was key to taking a process that might have been going on in any case, but making sure as it should in a democracy, that the legislature was behind that process, pushed that process forward. And bringing it back to the first issue about the FSB, I think the FSB, because the U.S. financial system is the central financial system for the world, that the FSB success depended on the U.S. success. So, Dodd-Frank by pushing the U.S. system forward, helped to push the global system forward as well.

It was, I mean, as others have said, the needs were recognized. But you have to put the processes in place and move forward. And I think Dodd-Frank was important globally, as well as in the U.S.

MS. MUI: Don, you've also, you know, brought up the point that not all countries are sort of progressing equally. That they've not progressed equally over the past decade, despite the level of coordination we've seen at the FSB and other organizations. Does it matter if, for example, you know, the U.S. is not moving along as quickly on capital requirements as the U.K. is? Does it matter if the U.S.'s stress tests are perhaps not as rigorous as what we're seeing in the U.K.? Does that make a difference? Does everyone --

MR. KOHN: What makes the difference is if the U.S. is vulnerable to financial instability. Because when the U.S. is unstable, the global financial system is unstable. So, whether a capital requirement is a point here or a point there, a liquidity requirement, it's better, I mean, there's regulatory arbitrage. So, it's better that they be roughly lined up. But I think the fundamental, the underlying issue is keeping these key systems stable when bad things happen, when shocks hit. And that's what we're seeing right now.

MR. GENSLER: Yeah, I mean, it's a little bit like this virus. Money and capital knows no border in a good way, but sometimes in a negative way. And the virus knows no border as well. And so, I agree with Don. But I'm going to turn to like securities and derivatives law and so forth. We do have different political systems, different cultures, different financial markets. So, we had to recognize in the midst of rule writing and in legislative initiatives, that we might be in a different place in the U.S. than elsewhere.

We did great work and, again, through the Financial Stability Board, through IOSCO, but mostly, with Michel Barnier, who more recently negotiated the Brexit deal. But he was in a position in the European Commission at the time to negotiate with all of us who were doing our jobs in the earlier era of rulemaking, and to coordinate with the Europeans. And we found if Europe and the U.S. was roughly aligned and then hopefully if Canada, Australia, Japan, were with us, that was a pretty good -- I mean, we wanted Hong Kong and Singapore. We were realistic, particularly, in some of the securities law and the derivatives law that China's markets weren't as developed then as they are even now 10 years later.

But it was really important, I felt. And I think all of us felt, that if we could come along together, roughly together, it was important because capital risk knows no boundary. AIG if we not forget ourselves, failed because of a subsidiary of theirs in London. AIG Financial --

MR. KOHN: Financial Products.

MR. GENSLER: -- (inaudible). Which was actually --

MS. PEIRCE: Well, there was a little bit of other stuff going on at the AIG as well. It was

-- there were securities lending issues as well.

MS. MUI: Well, Hester, if you could --

MS. PEIRCE: Among other things.

MS. MUI: -- (inaudible). I mean, I feel like what I'm hearing is that there's a lot of pressure on U.S. regulators like yourself in order to get it right. Can you talk a little bit about that challenge? And, you know, if the U.S. -- essentially, if you don't get it right, then that means that the rest of the world may not be able to get it right. So, how do you approach that mindset?

MS. PEIRCE: Well, I think it is important that we get it right. But I'm not sure that everyone else has to follow along exactly with what we do. I mean, I've always been a proponent of the view that we have individual jurisdictions for a reason. We have our own sovereignty and we can make our own decisions. We inform ourselves by talking with our international counterparts. It's really important for us to have those discussions. And I believe that that's really important. But ultimately, we're trying to get it right here.

I personally have been working on finishing a piece of Dodd-Frank, which taken quite a long time. Which is on our regime for security based swaps. And that is a market as Gary said that knows no borders. So, we've been doing a lot of thinking about how our rules would affect entities, foreign entities that work in the United States. And we're trying to develop a substituted compliance regime recognizing that another country's regime doesn't need to look and act exactly like ours in order for it to be an effective regime to achieve the same objectives that we're trying to achieve.

And that concept of being willing to defer to judgments that your international counterparts make, is a really important one and I think we have to be careful not to lose that. But at the same time, it's really important for us not to be told by our international counterparts what we have to do here in the United States. People sometimes have very strong feelings on these topics and they're sure rules that are developed in place are perfect for another place. I don't always subscribe to that.

I think another really important point to remember is that Dodd-Frank introduced a lot of complexity into our financial regulatory system. And I think the jury's still out on whether that's a good thing. I would say that there are some really negative consequences of that. It really is -- it is bad that we have such a complex system that it's difficult for anyone except for the regulatory folks who are very much in the weeds to understand what's going on. And even those of us who are more in the weeds than others, there's a lot that we can't know. And I think that humility, the need to have regulatory humility and to try to, instead, building incentives, market based incentives so that the market itself can react and can discipline itself and correct itself. That's much more likely, in my view, to be a long term successful solution.

And the complexity problem, I think it's aggravated sometimes in the international context. Because if you try to get everyone on the same page, exactly the same page, then you've got everyone walking in exactly the same direction. And if there's a decision that wasn't right, then we're all going to go down together. Whereas, if you have a little heterogeneity, it can actually be a stronger and more resilient financial system. So, I think we need to remember that. That we don't always have to be entirely uniform, and that a little diversity can be a good thing.

MR. GENSLER: So, I'm going to agree in part and then highlight one area that we might have a debate or difference. I agree heterogeneity is really important and uniformity is often a path towards financial fragility or instability in markets or the correlation of everybody doing the same thing. But there's a time in the weekend, which is 8:00 p.m. on Sunday night, which every regulator that has dealt with a crisis knows, and it's when the capital markets open in Asia. And so, it's that we're such an interconnected global world where most international banks have 1,000 to 3,000 legal entities. Their complexity also matters. I'm agreeing with Hester on this. But at 8:00 p.m. on Sunday night, if something is going on in a U.S. affiliate in Japan or an European affiliate in Japan, it will bring the whole thing down.

And so that's the interconnection. Barney Frank reached out in the middle of writing Dodd-Frank to both the securities commission, SEC, and the CFTC, and said, how do we deal with the Lehman Brothers and AIG issue? Because AIG was operated out of London and a lot of what happened at Lehman was all actually offshore. And he wrote, his staff wrote with some help from the commissions, some words, simple words into Dodd-Frank, which became Section 2(I) of the Commodities Act, about -- and I won't get the words exactly right, but if something had an effective or significant effect on U.S. commerce or business, then it was somehow underneath this. He was trying to capture the AIG.

And from those 16 simple words, and though we might not have gotten it all right at either of our agencies at the time, we tried to then write guidance and rules about that. How do you cover the offshore affiliate and what Barney used to call the flowback risk. The risk would flow into these shores and hurt our public jobs and homeowners. And that's the tricky part. It's not easy. It's a balancing act. There's a lot of tradeoffs.

But I do think what Don said about regulatory arbitrage, I was at Goldman Sachs for a bunch of years. My last role was cohead of finance and we at the time, had 700 legal entities. But, you know, I learned a little bit about regulatory arbitrage. And always legal, always legal. But, you know, so.

MS. PEIRCE: Well, so we can blame the complexity on you. But I think one of the things that's very tempting is for us at -- because we are such a large market, and because a lot of things that happen around the world can have an effect here, and U.S. investors participate in lots of things all over the world, I think there can be a real temptation for us to try to reach our regulatory fingers into places that maybe they don't belong.

And so, we again, I mean, I harp on this word all the time, but I think regulatory humility is also important for us in that regard that we can't -- we can't set the rules for everyone else. If people want to go and avail themselves of other markets, then they don't get the protection of our rules. And so if they want to come to our markets, then our rules apply.

MR. GENSLER: I think you and I are closer together particularly if it's like a Japanese bank or it's Deutsche Bank. But when it's an affiliate of one of these large banks in the U.S. that Don's old colleagues or maybe have, you know, oversight of, then I think that risk can flow back and hurt our public in a real way.

MS. MUI: We talked about the importance of heterogeneity. We talked about the importance of at the same time international consensus. You know, we are in a political moment now where there may not be the same level of international consensus that there once was where there's skepticism of global institutions and that there is especially in the U.S., a real desire to put America first. So, I was hoping that you guys could talk a little bit about how the global political dynamics have shifted over the past 10 years and what that could potentially mean for international financial regulation.

MR. GENSLER: I've been -- and, you know, it's well-known to probably your listeners that I served in a democratic administration. I've been reasonably pleased watching this administration in the financial sector, whether it's the SEC, whether it's the Federal Reserve, whether it's the agency I once had the honor to serve at, that there's still a real focus on international dialogue coordination and so forth.

But you're right that whether it's trade negotiations, whether it's climate change, I mean, the list is quite long that we seem to be a little bit more fractured now. But in terms of financial regulation, the relationships among central banks through this pandemic, has been very close and coordinated. I think the relationship -- I'm not living it, as Hester is every day, but the relationships between the securities regulators, I think is, to their credit, has been pretty close globally. But others might comment.

MS. PEIRCE: Yeah, no, I would agree with that. I mean, I think we've been working very closely with our international counterparts. Chairman Clayton is very much in communication with his counterparts all the time. And I think it's a really healthy relationship. We work very well with lots of different countries on a bilateral basis. We have all kinds of coordination on enforcement and regulatory matters. And I think that's a wonderful thing.

But on the other hand, I think there's a pushback against some of these international organizations when they try to tell us and prescribe to us what we have to do. And that's something that I pushback on all the time. I as a regulator, take my directives from the statute that governs me. And so, I have to follow that. And that statute is a product of democratic deliberation in Congress. And so, we can't have a system where you have an international body setting a directive and saying, okay, you in the U.S. you've got to go do this. Which is basically telling Congress how to write a rule or telling us that we have to ignore what Congress told us to do and do what this international organization told us to do.

And that's not a tenable situation. So, while I think the SEC including me, we're all very committed to having these solid international relationships and to learning from one another and to sharing information to try to help one another to have these strong relationships. It doesn't mean that take our orders from an international organization. We just -- legally, we cannot do that.

MR. KOHN: So, I agree with Hester. She can't, as she said, the SEC has certain laws and regulations they need to enforce themselves or they need to promulgate and enforce. I think we should focus on outcomes rather than the specific regulations. So, I do think the international organizations are appropriately worried if they don't think the U.S. is protecting its markets or its banks, its institutions sufficiently against certain kinds of risks. And they, you're right, Hester, they shouldn't tell us how to do it, but they should be able to say, look, we think what you're doing is exposing the global economies, exposing our people as well as yours to risks. What are you going to do about it?

I think one of the issues I've wondered about, and it's a good chance to ask Hester, is the SEC -- most U.S. regulators don't have a financial stability mandate. They have particular mandates for protecting investors or whatever. And I've wondered whether giving the SEC, the CFTC, even the Fed is perceived to have a financial stability mandate, and it has acted to stabilize the financial system. But it's not written into the law that the Fed has. So, it's ambiguous and ambivalent to a certain extent. So, I wondered whether you thought it would be useful if U.S. regulatory agencies had, in addition to their other requirements, a financial stability mandate. And I'm hoping if you say, yes, I'm going to -- I was going to carry that back to FSOC and how to strengthen FSOC, so.

MS. PEIRCE: So, I think the mandate that we have is really nicely consistent with our rule as a capital markets regulator. So, the capital markets are intended to be places where people go and they take risk. And so, capital markets are very different than our banking markets. And that's intentional. And so, it's not surprising that when you move risk out of the banks, it comes into the capital markets. And we in the U.S. have such strong and robust and diverse capital markets that it enables people to do all kinds of really interesting things that, frankly, other financial systems don't support.

And so, I think if we import a financial stability mandate into what we do, it does risk impairing the ability of our capital markets to function the way they do. Now, we think about the strength of our institutions. We have net capital rules for our broker dealers, for example. We're thinking about those kinds of things. But ultimately, I think capital markets go really nicely with competition. And they're intended to be a place where, you know, an institution might be here for a long time and might contribute a lot, but there's room for new entrants to come in and to shake things up and to offer new products and services.

And so I worry that if you start thinking too much about stability, what you end up with is a few really large institutions that we have really tight relationships with and that then, you know, we do -- we help prop them up. And that's certainly not what I want us to be doing. I want us to be developing a really competitive dynamic marketplace that serves all sectors of our society that, you know, that really brings in new ideas and allows these ideas to flourish. And so, that's what I'm most excited about when I think about our capital markets.

MR. KOHN: So, I certainly agree with that objective. But I'm wondering whether if -- when the capital markets themselves freeze up and require the Federal Reserve to come in as it did in March, whether that doesn't suggest that as part of this very competitive innovative market, there are some systemic issues that should be addressed by the regulators. We shouldn't have to rely on the Federal Reserve to backstop markets, particularly -- well, or if we do, there ought to be some oversight of those markets, some greater oversight so that the occasions when the Federal Reserve needs to come in, twice in the last 12 years, are fewer and farther between.

MS. PEIRCE: Well, I think there's going to be time and a need for a retrospective review to understand what happened and how different things worked and didn't work during the last several months. Some people attribute some of the problems that we saw and some of the need for the Fed to come in and intervene to the fact that there were rules that were set up during the last crisis that didn't really work. And in fact, before this crisis happened, there were a lot of complaints that certain activities were being squeezed out because of the certain regulations that flowed from Dodd-Frank or from other related regulatory efforts following the last crisis.

And so, I think it's worth us sitting down and trying to figure out where the problems are. And, again, looking at also at our rules to make sure that we have rules in place that allow entities when there's a problem, to fail and not -- I mean, failure of any financial entity is likely to cause some problems. It's not going to be without problems. But to minimize those problems and allow that entity to disappear and a new one or multiple new ones, preferably, to come in in its place.

MS. MUI: What do we know about the international experience? What are the international regulatory agencies that have a financial stability mandate that may have seen better outcomes than the U.S. has?

MR. GENSLER: Well, I think that what we have is -- and it was talked about in the panels earlier, we probably have more financial regulators. We're one of only two countries, I think, Japan and ourselves that has two market regulators. It's split derivatives and securities. We have at least three bank regulators, FDIC, OCC, and the Fed. But in fact, we have the credit union authority. We have others. And so, you know, it depends how one --

MS. PEIRCE: States.

MR. GENSLER: And then we have --

MS. PEIRCE: (Inaudible) --

MR. GENSLER: -- GSE regulators and the like. So, I think what we find is in other jurisdictions, we tend to have fewer. And then the other question overseas is often, are they sort of accountable more to their politically elected branch? We just had a Supreme Court case on this this week in terms of whether the director of the CFPB can be removed with or without cause. But the so-called independent regulatory agencies in the U.S. are very accountable ultimately to the public. But in other jurisdictions, they're more accountable more directly right into finance ministries sometimes. So, there's some different architecture around the globe on these things.

In terms of financial stability, it's usually the central bank and not the securities regulator. I'm not aware, maybe Hester knows. But I'm not aware of capital markets regulators. Maybe you know better. Did the financial conduct authority in the U.K. or ESMA for Europe have such systemic. And I think the differences are more about those first things. We have a lot more regulators than they do. And sometimes theirs are more directly accountable into their finance ministries.

MS. MUI: One of the other major focuses of Dodd-Frank was to try to limit the Fed's ability to bail out individual institutions through restricting 13(3) authority, for example. But one of the things this pandemic has shown is that there are ways around that. Right now the Fed is buying bonds of apparently Walmart and Coke and Boeing and others as well. Other individual banks around the world have expanded into buying ETFs and REITs and bonds for individual banks. Is that -- was restricting the Fed's ability to help individual companies a mistake from Dodd-Frank? Is that something that now in this pandemic we're realizing, you know, that there needs to be more flexibility on behalf of central banks?

How do you guys see that?

MR. GENSLER: So, I'm going to let -- I'll go and Don. I think this is a debate since the founding of our nation. When Hamilton went to Congress and President Washington supported him over Jefferson to set up the first bank of the U.S., and then we had a second bank of the U.S. Just a matter of history. One of the reasons, not the only reason, but one of the reasons that President Jackson, our seventh president, sort of got rid of that whole thing, was because they were a lending and they were involved in private capital flows and private capital markets.

Now, I'm not saying the next 75 years were a good set of years in the wildcat banking era or anything like that. But when the Federal Reserve was set up in 1913, and with all its changes over the decades, over 100 years, it's really been sort of trying to stay aside the capital markets. And let that -- let the pricing, let the allocation, the winners and losers, both on the investing side and on the borrowing side, and the innovating side, be away from the central bank and the government.

That's kind of -- that's our core. I think it crosses party lines. I think that's our core sort of philosophy. And then the 2008 crisis was more specific about sort of a real mood in Congress and in the public why are big banks getting bailed out, and maybe the automobile companies, but nobody else. And so, I think, Congress reacted, but I think they were reflecting the public's mood, frankly, on that. But Don probably has a more, you know, there at people at the Federal Reserve that wish they had not had that restriction put in there.

MR. KOHN: Gary, I was one who worried about the 13(3) restrictions and how it might constrain the Fed in the next crisis. I think we've seen that it didn't, it hasn't, right? And that's because the treasury and the Congress acted very, very rapidly to recognize the dire situation when you slam the brakes on a good part of the economy and what might happen as a consequence. And how that was echoing through the financial markets.

So, that doesn't mean -- so, this time, it didn't matter, these constraints. But I'm not sure about the next time. It's very, very tricky, of course. You want to be responsive. I agree that keeping the Fed out of making decisions about who gets funds, who doesn't get funds. It's not a place where the Fed is comfortable, right? So, our 99 percent of the time, the Fed was dealing with the treasury or treasury guaranteed agencies, and wasn't making these other decisions. And I think the Fed's attempt to structure a bond portfolio that is broadly representative is another way of trying to get out of making those decisions. Who should get it, who shouldn't get it. They're buying a whole -- the whole portfolio in the corporate bond market. So, it is uncomfortable. It may be necessary under certain circumstances. I think it's important as somebody pointed out on an earlier panel, that restricting the 13(3) to individual corporations, the AIGs, the future AIGs of the world, went hand-in-hand with the resolution authority.

So, hopefully, the next time there's an AIG, it'll be taken care of under Title II of Dodd-Frank. It'll be put in the resolution and not have the Fed being forced to lend to this thing to keep it alive. We could lend, perhaps, -- I'm sorry, I couldn't get -- can't get out of the we for the Fed. So, the Fed could lend, perhaps, to one of the surviving entities, but a way of dealing -- a way of dealing with those individual corporations that got themselves in terrible trouble by taking risks without putting taxpayer money at risk, was really important. So, I think the resolution part of Dodd-Frank was critical to making the 13(3) work.

MR. GENSLER: And it's not as if, I mean, Congress did weigh in recently in the CARES Act and said, they wanted treasury. I don't think it's the Federal Reserve. But treasury to make certain funds available to the airline industry. And whether you're for that or against it, at least it was a representative body, people who vote --

MR. KOHN: Right.

MR. GENSLER: It's Congress.

MR. KOHN: Right.

MR. GENSLER: And, again, you can debate both sides of that. That's different than having a monetary authority then take their enormous balance sheet and then pick winners and losers.

MR. KOHN: I agree. And even where the Congress said we want the Fed to be making credit available, they wanted the Fed to be using the treasury backstop that they gave it, the extra $450 billion as a way of saying we want the treasury involved in these decisions. At least setting the risk parameters. And I think that's perfectly appropriate.

MS. MUI: We have just about 10 minutes or so left. So, I just want to remind viewers. If you do have any burning questions you want to get in before the end of the panel and the end of this session, you can submit your questions by emailing events@brookings.edu or by joining the conversation on Twitter with the #DoddFrank and the number 10.

We started the conversation talking about bank capital requirements. And it looks like due to COVID, the sort of implementation of Basel III is going to be delayed at least for a year or so. Does anything think that's going to have a significant impact? Or is that something that's to be expected given the level of the crisis we're currently facing?

MR. GENSLER: I understand it and it may even be a prudent tradeoff, but I do think -- I do think that things are going to get worse before they get better. And this might not express itself in terms of the job numbers, but I think we haven't yet seen the significant household delinquencies and defaults. Congress has stepped in with $2-1/2 trillion of support. They're likely to put another infusion into the system in the next six weeks. Why at some point in time, --

MS. MUI: (Inaudible).

MR. GENSLER: -- you know, with 20 plus million people out of work, there's going to be a lot of people that can't pay their mortgages and auto loans and so forth. There's going to be tremendous disruptions in the commercial real estate markets and, of course, we talked earlier on a panel, Janet Yellin, was articulate about leverage loan markets and the like.

And I think that's going to wash back into the banking system in some way. Both the consumer delinquencies, the commercial real estate, the leverage loan marketplace. It's going -- I think it's going to be a pretty tough winter and spring of 2021. So, I'd rather make sure that the financial sector is as prepared for that as I think that shock to the system has not fully been felt yet by the financial sector. The banks is really what I'm talking about.

MR. KOHN: So, I agree with Gary. And that's one reason why I was hoping the Fed would come down a little tougher on the bank dividends. So, I think Hester, to pick up Hester's theme about --

MS. MUI: (Inaudible) Don.

MR. KOHN: -- we don't know what's going to happen. It could be really bad both in household and business bankruptcies. Having enough -- and we've talked about how the banking system has been a strength of the response to the virus and the economic impact of that. I think we need to keep it that way. So, I was hoping that the Fed would make, basically, force the banks not to pay out their profits. To retain it. Yeah, that might be extra capital they don't need, but I'd rather have them with extra capital they don't need than not enough capital and have them start cutting back on lending at the wrong time.

On your questioning line about Basel III, I think postponing that is fine. And finding ways to encourage banks to use the capital they have. So, I'd like to build the capital and then I'd like to encourage them to use it to keep U.S. households and businesses afloat through this horrible crisis as best they can. So, postponing that's fine, provided you don't lose track of the ultimate goal, which is to rebuild that capital once it's been used so the banking system is safe and can participate in lending again down the road.

But postponing that and getting them to use the buffers they've built up to support credit flows, I think is very important. So, using the buffers now, rebuilding them later, I hope the regulators don't lose sight of what I think one of the major lessons of coming out of the last crisis was, which was the banking systems that rebuilt their capital fastest, U.S. and some others, were much more able to support economic activity going forward. And postponing the rebuilding of the capital once the crisis is over was just left as a weak banking system as you saw in many European countries. So, use the capital now, but rebuild it once the crisis is over.

MS. MUI: This question may be jumping the gun, but I think it seems to be a good place to end the conversation, which is, you know, as Gary and Don, you guys both pointed out, there's still potentially a long way to go in the fallout from the pandemic. But eventually, hopefully, you know, things will get better. There will be a vaccine. We'll contain the virus. And there will have to be an unwinding period. What have we learned about the best way to go about that unwinding from the experience of unwinding some of the supports from the global financial crisis?

MR. GENSLER: So, I think what we found is there's some support, central bank support particularly, that's relatively hard to unwind. And some that's more susceptible to being unwound.

Frankly, the TARP support got unwound sooner than the significant balance sheet support that many central banks did, the QE1s, the Quantitative Easings 1 and 2 and 3s and so forth.

I think it will be a long time. The central bank and the U.S. has a $7 or $8 trillion balance now. In 2008, it was 1/10 that size. It was about 4 trillion just five months ago, and it's doubled in size. So, it's using that balance sheet. I think necessarily. It's using it in the middle of this crisis. But it will be a -- it will probably be a long time. And I think our jobs recovery and our economic recovery, unfortunately, is probably more likely years than just, you know, months or something. So, it's going to be a long kind of recovery. Hopefully, you know, God willing, it's really robust recovery in 2021. But I think it's long and it'll be hard to unwind those things.

I think on the congressional, the fiscal support, it will be hard to -- it's going to be hard whomever wins the presidency in November. What do we do when many of those programs that Congress put in place run out? And they have different timelines and so forth. But there'll be a lot of desire to kind of keep them going. And while we have the significant fiscal ability, it's not unlimited. We, you know, we can't be kind of just tapping the U.S. balance sheet for trillions of dollars every quarter. And so that's going to also most likely come down at some time.

MS. MUI: Hester or Don, final thoughts? Does it matter if countries unwind at different paces and at different times? As they will likely --

MS. PEIRCE: I think --

MS. MUI: -- depending on the --

MS. PEIRCE: -- at the SEC, I think what we're most focused on is just making sure that the markets are able to be up and running and they've performed very well during the last several months, which is a great thing to see. And we're committed to keeping them open so that people can participate in the shift of things back into the private hands, right? And help with the rebuilding of the economy through our capital markets. And so, providing relief where that's necessary to do that. And then once that's through, then we'll go back and we'll look at what we learned from this time. But from my perspective as a securities regulator, I'm staying out of what the Fed needs to do to wind out of -- wind down out of this.

MR. GENSLER: She's not only a wise policy maker. She's a wise political actor. But the balance sheet and the checkbook is usually at the Fed or Congress. And those are the ones that are going to be, I frankly think will be harder to wean ourselves from.

MR. KOHN: So, I think because Hester will be doing her job so well, and having these capital markets get back up and running, as they are already, I think those specific pieces of the Fed balance sheet aimed at dysfunctional markets will sort of naturally fade away. But I also agree with Gary. My expectation is that the recovery could be on the weak side after an initial bounce back and interest rates will need to be low for quite some time. And so, the basic treasury balance sheet of the Federal Reserve will remain elevated for a while until the economy gathers considerably more momentum and the Fed can reinitiate a drop back in that balance sheet.

MS. MUI: Well, Gary, Don, and Hester, thank you all very much for spending the past 55 minutes with us. Really appreciate it. Thank you to Brookings for hosting this important discussion. And we will have to leave it there. And I'll turn back over to --

MR. GENSLER: And we thank you and we thank anybody that listened to the 5th Panel of the day or whatever we are. So, thank you. Stay safe and be well.

MS. PEIRCE: Thank you very much.

MR. KOHN: Right.

MS. MUI: Thanks, everybody.

MR. BARR: Thanks for our final panel. It was really terrific. Those of you who were watching all day know that we've had a very full day. It's been a great way to learn together. This is the first time we've done a joint Brookings-University of Michigan conference that's 100 percent virtual. I hope that you have all enjoyed it.

Our Center on Finance, Law & Policy and the Brookings Institution, I want to thank our partners at Brookings, Aaron Klein and his team. Our team at the University of Michigan did an amazing job putting this conference together. I'm really very, very grateful for everybody participating. Our panelists, I want to thank everybody for participating too, particularly, the, of course, the irredeemable -- sorry, not irredeemable (Laughter), the absolutely wonderful conversation we had over lunch with Chris

Dodd and Barney Frank. We had five amazing panels on the lessons learned from the process, on systemic risk, consumer lending, and protection, the current crises, and of course, this panel on global risk.

We have lots of areas of agreement and some areas of disagreement. I think that it is safe to say that the Dodd-Frank Act framework is here to stay. It's resilient. It's setting up the system for the way that we're going to deal with the current crises and crises in the future. Not to say that it is perfect in any way. There's lots more work to do.

Our financial system is safer and fairer as a result of the changes that we talked about today from the Dodd-Frank Act. It is safer and fairer, but not safe enough or fair enough. And as we were discussing in this last panel, there are more risks to come from the current crisis. And we need to be alert to the ways in which those risks are going to harm the financial system and eventually reverberate back into the economy where the harm is already being caused today.

So, we need a financial system that is safer and fairer. One that works better for households and businesses. I hope this conversation today has helped all of us think about ways to improve the financial regulatory system in the coming years.

I want to thank all of you who have been watching online for the day for joining us today. I hope you found it informative. And that you'll join us for our next conference, which we're having in November jointly with the San Francisco Federal Reserve. And it's going to be talking about the central bank of the future. The role of technology in working with central banks to promote financial inclusion around the world. That's November 16th and 17th. It will also be virtual. So, you'll have a chance to join us from wherever you're listening today.

Until that time, again, thank you. Thanks to all of our wonderful teams at Brookings and at the University of Michigan. Thanks to our panelists for their great remarks and great and engaging conversation today. Take care. I hope everybody stays safe and stays healthy. Bye-bye.

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